

CHAPTER 420

AN ACT

SB 817

Relating to local budget law; amending ORS 294.438, 294.441, 294.456, 294.471, 294.473, 294.481, 310.055 and 310.060; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 294.438 is amended to read:

294.438. (1) Not more than 30 days and not less than five days before the meeting of the governing body of a municipal corporation under ORS 294.453, a notice of the meeting and a financial summary of the budget as approved by the budget committee and compared with the actual expenditures and budget resources of the preceding year or preceding budget period and the budget summary of the current year or current budget period must be published **by one or more of the methods described in ORS 294.311 (35)** at least once. The notice and financial summary may be published in accordance with forms prescribed by the Department of Revenue or in a narrative format that includes all the information required under subsections (2) to (8) of this section.

(2) Except as provided in ORS 294.441, the financial summary required under subsection (1) of this section must state separately the total amount of resources included in the budget in each of the following categories:

(a) Beginning fund balance or net working capital;

(b) Income from fees, licenses, permits, fines, assessments and all other service charges imposed by the municipal corporation;

(c) Property taxes approved by the budget committee for the ensuing year, or as increased by the governing body of the municipal corporation as provided in ORS 294.456;

(d) Federal, state and other grants, gifts, allocations and donations;

(e) Proceeds from bonds and other borrowings;

(f) Interfund revenue transfers and reimbursements for internal services; and

(g) The total of all other budget resources.

(3) Except as provided in ORS 294.441, the financial summary required under subsection (1) of this section must state separately the total amount of expenditures and other requirements included in the budget in each of the following categories:

(a) Personnel services;

(b) Materials and services;

(c) Capital outlay;

(d) Debt service;

(e) Special payments;

(f) Interfund revenue transfers;

(g) Operating contingencies; and

(h) Unappropriated ending fund balance and reserves.

(4)(a) Except as provided in ORS 294.441, the financial summary required under subsection (1) of this section must state the estimated total amount

of expenditures and other requirements and the estimated total number of employees stated in full-time equivalent positions for the ensuing year or ensuing budget period for each organizational unit or program of the municipal corporation.

(b) For purposes of this subsection, "organizational unit" does not apply to hospitals.

(5)(a) The financial summary required under subsection (1) of this section must describe in narrative format the prominent changes from the current year or current budget period in the activities and financing of the major organizational units or major programs.

(b) For purposes of this subsection, "organizational unit" does not apply to hospitals.

(6) The financial summary required under subsection (1) of this section must state the municipal corporation's operating tax rate or amount and the rate or amount of all other ad valorem property taxes to be certified to the assessor, including separate rates or amounts for local option taxes and ad valorem property taxes for meeting payments on bond principal and interest and for meeting other obligations of the municipal corporation described in section 11 (5), Article XI of the Oregon Constitution. Tax rates must be stated as a rate per thousand dollars of assessed value.

(7) The following statements must be published with the financial summary required under subsection (1) of this section:

(a) A classified statement of outstanding indebtedness excluding indebtedness that has been defeased as provided in ORS 287A.195; and

(b) A classified statement of all indebtedness authorized but not incurred.

(8) The meeting notice required under subsection (1) of this section must:

(a) State the time and place of the budget hearing at which the approved budget document may be discussed with the governing body of the municipal corporation;

(b) State the place where the complete budget document is available during regular business hours for inspection by the general public and where and when copies of the complete budget document may be obtained;

(c) State that the budget has been prepared in accordance with the basis of accounting used in the preceding year or preceding budget period unless a change in the basis of accounting is anticipated; and

(d) If a change in the basis of accounting is to be made, explain the change and the effects of the change.

(9) The Department of Revenue may adopt rules to implement the provisions of this section.

SECTION 2. ORS 294.441 is amended to read:

294.441. (1) For a school district or an education service district, the financial summary required under ORS 294.438 (1) must state separately the total amount of resources included in the budget in each of the following categories:

(a) Beginning fund balance;

- (b) Property taxes other than local option taxes;
- (c) Local option taxes;
- (d) Local sources;
- (e) Intermediate sources;
- (f) State sources;
- (g) Federal sources;
- (h) Interfund revenue transfers; and
- (i) The total of all other budget resources.

(2) For a school district or an education service district, the financial summary required under ORS 294.438 (1) must state separately the total amount of expenditures and other requirements included in the budget in each of the following objects:

- (a) Salaries;
- (b) Associated payroll cost;
- (c) Purchased services;
- (d) Supplies and materials;
- (e) Capital outlay;
- (f) Other objects other than debt service;
- (g) Debt service;
- (h) Interfund transfers;
- (i) Operating contingencies; and
- (j) Unappropriated ending fund balance and reserves.

(3) For a school district or an education service district, the financial summary required under ORS 294.438 (1) must state separately the total amount of expenditures and other requirements and the total number of employees stated in full-time equivalent positions included in the budget in each of the following functions:

- (a) Instruction;
- (b) Support services;
- (c) Enterprise and community services;
- (d) Facilities acquisition and construction;
- (e) Other uses other than debt service and inter-fund transfers;
- (f) Debt service;
- (g) Interfund transfers;
- (h) Operating contingencies; and
- (i) Unappropriated ending fund balance and reserves.

(4) For a community college district, the financial summary required under ORS 294.438 (1) must state separately the total amount of resources included in the budget in each of the following categories:

- (a) Beginning fund balance;
- (b) Property taxes other than local option taxes;
- (c) Local option taxes;
- (d) Tuition and fees;
- (e) Other local sources;
- (f) State sources;
- (g) Federal sources;
- (h) Interfund revenue transfers; and
- (i) The total of all other budget resources.

(5) For a community college district, the financial summary required under ORS 294.438 (1) must state separately the total amount of expenditures and other requirements included in the budget in each of the following objects:

- (a) [*Salaries*] **Personnel services**;
- (b) Materials and services;

- (c) Financial aid;
- (d) Capital outlay;
- (e) Debt service;
- (f) Other requirements;
- (g) Transfers;
- (h) Operating contingencies; and
- (i) Unappropriated ending fund balance and reserves.

(6) For a community college district, the financial summary required under ORS 294.438 (1) must state separately the total amount of expenditures and other requirements and the total number of employees stated in full-time equivalent positions included in the budget in each of the following functions:

- (a) Instruction;
- (b) Instructional support;
- (c) Student services other than student loans and financial aid;
- (d) Student loans and financial aid;
- (e) Community services;
- (f) College support services other than facilities acquisition and construction;
- (g) Facilities acquisition and construction;
- (h) Interfund transfers;
- (i) Other objects;
- (j) Operating contingencies; and
- (k) Unappropriated ending fund balance and reserves.

SECTION 3. ORS 294.456 is amended to read:

294.456. (1)(a) After the public hearing required under ORS 294.453 (1) and consideration of matters discussed at the public hearing, the governing body of a municipal corporation shall enact the ordinances or resolutions necessary to adopt the budget, to make the appropriations, to determine, make and declare the ad valorem property tax amount or rate to be certified to the assessor for either the ensuing year or each of the years of the ensuing budget period and to itemize and categorize the ad valorem property tax amount or rate as required under ORS 310.060.

(b) The governing body may amend the budget estimates and proposed ad valorem property tax amount or rate in the budget document before adoption under paragraph (a) of this subsection and after adoption if the post-adoption amendments are adopted prior to the commencement of the fiscal year or budget period to which the budget relates.

(c) Notwithstanding paragraph (b) of this subsection, unless the amended budget document is republished pursuant to ORS 294.438 or 294.448 in the same manner as the original budget and another public hearing is held pursuant to ORS 294.453 (1), or except to the extent ad valorem property taxes may be increased under ORS 294.476:

(A) The amount of estimated expenditures for each fund in an annual budget may not be increased by more than \$5,000 or 10 percent of the estimated expenditures, whichever is greater;

(B) The amount of estimated expenditures for each fund in a biennial budget may not be increased

by more than \$10,000 or 10 percent of the estimated expenditures, whichever is greater; and

(C) The amount or rate of the total ad valorem property taxes to be certified by the municipal corporation to the assessor may not exceed the amount approved by the budget committee.

(2)(a) After a public hearing under ORS 294.453 (2) or (3), receipt of the certification of the tax supervising and conservation commission, if required, and consideration of any orders, recommendations or objections made by the tax supervising and conservation commission in accordance with law, the governing body of a municipal corporation shall enact the ordinances or resolutions necessary to adopt the budget, to make the appropriations, to determine, make and declare the ad valorem property tax amount or rate for either the ensuing fiscal year or each of the fiscal years of the ensuing budget period and to itemize and categorize the ad valorem property tax amount or rate as required under ORS 310.060.

(b) The action taken by the governing body under paragraph (a) of this subsection on each order, recommendation or objection made by the commission, with the reasons for the action, must be included in the ordinance or resolution adopting the budget.

(c) The governing body shall send a certified copy of the ordinance or resolution to the commission within 15 days after the date the ordinance or resolution is adopted.

(d) The governing body may amend the budget estimates, appropriations and ad valorem property tax amount or rate in the budget document before adoption under paragraph (a) of this subsection and after adoption if the post-adoption amendments are adopted prior to the commencement of the fiscal year or budget period to which the budget relates.

(e) Notwithstanding paragraph (d) of this subsection, unless the amended budget document is re-submitted to the tax supervising and conservation commission for another public hearing and for recommendations or objections of the commission, or except to the extent ad valorem property taxes may be increased under ORS 294.476:

(A) The amount of estimated expenditures for each fund in an annual budget may not be increased by more than \$5,000 or 10 percent of the estimated expenditures, whichever is greater;

(B) The amount of estimated expenditures for each fund in a biennial budget may not be increased by more than \$10,000 or 10 percent of the estimated expenditures, whichever is greater; and

(C) The amount or rate of the total ad valorem property taxes to be certified by the municipal corporation to the assessor may not exceed the amount [shown in the budget document at the time of the budget hearing] **approved by the budget committee.**

(3)(a) Except as provided in subsections (4) and (5) of this section, the appropriations required under subsections (1) and (2) of this section must contain:

(A) One amount for each organizational unit or program of each fund that is the total of all amounts for personnel services, materials and services and capital outlay attributable to the organizational unit or program; and

(B) Separate amounts for activities within an organizational unit or program that cannot be allocated to a particular organizational unit or program and for debt service, special payments, interfund revenue transfers and operating contingencies.

(b) Separate amounts for activities within an organizational unit or program may be appropriated separately.

(c) For a municipal corporation to which the terms "organizational unit" and "program" do not apply, the appropriations must contain separate amounts for personnel services, materials and services, capital outlay, debt service, special payments, interfund revenue transfers and operating contingencies for each fund.

(4) For a school district or an education service district, the appropriations required under subsections (1) and (2) of this section must contain separate amounts in each major fund for each major function, as prescribed by the Department of Education in consultation with the Department of Revenue, including instruction, support services, enterprise and community services, facilities acquisition and construction, interfund revenue transfers, debt service and operating contingencies.

(5) For a community college district, the appropriations required under subsections (1) and (2) of this section must contain separate amounts in each fund for:

(a) Each major function, as prescribed by the Department of Community Colleges and Workforce Development in consultation with the Department of Revenue, including instruction, instructional support, student services, community services, college support services, interfund transfers, debt service and operating contingencies;

(b) Each major function as required under subsection (4) of this section; or

(c) Each program or each object classification required under subsection (3) of this section.

(6) Except as provided in ORS 294.338, 294.463, 294.466, 294.471, 294.473 and 294.478, after the governing body has enacted the ordinances or resolutions necessary to adopt the budget as required under this section, 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.

(7) The governing body of a municipal corporation shall record the amount or rate of ad valorem property taxes to be certified and the purposes for which the taxes will be used. Except as provided in ORS 294.476, the municipal corporation may not certify ad valorem property taxes in an amount or rate greater than the amount or rate recorded for the purposes indicated.

(8)(a) The governing body of a municipal corporation shall determine, make and declare ad valorem property taxes under subsections (1) and (2) of this section as a rate per \$1,000 of assessed value if the taxes are operating taxes **as defined in ORS 310.055 (1)** or rate-based local option taxes.

(b) The governing body shall determine, make and declare ad valorem property taxes under subsections (1) and (2) of this section as an amount if the taxes are certified as amount-based local option taxes, to pay principal and interest on exempt bonded indebtedness or to pay other government obligations described in section 11 (5), Article XI of the Oregon Constitution.

(c) Notwithstanding paragraph (a) of this subsection, the governing body may certify operating taxes as defined in ORS 310.055 (1) as a rate or an amount if less than the full authority is needed to balance the fund that will receive the taxes.

SECTION 4. ORS 294.471 is amended to read:

294.471. (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.

(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.

[(5) A supplemental budget is not required for the expenditure of funds authorized under ORS 294.338 (2) to (10).]

SECTION 5. ORS 294.473 is amended to read:

294.473. (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 [or holding] **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.

SECTION 6. ORS 294.481 is amended to read:

294.481. (1) As necessary to respond to an emergency situation, the governing body of a municipal corporation may:

(a) Adopt an ordinance or resolution authorizing the municipal corporation to receive grants or borrow moneys not included in the budget of the municipal corporation for the current year or current budget period; and

(b) Make appropriations for estimated expenditures out of any source of available funds, including unappropriated fund balances, by ordinance or resolution in the same manner as provided in ORS 294.463 (1), or by supplemental budget as provided in ORS 294.471 (3) **or 294.473.**

(2) If a meeting of the governing body of a municipal corporation is not practical in an emergency situation, the chief executive officer of the municipal corporation may, by written order, authorize the immediate expenditure of funds from any available source to respond to a threat to public health or safety.

(3) As used in this section, "emergency situation" means:

(a) Involuntary conversion or destruction of the property of a municipal corporation;

(b) Civil disturbance;

(c) Natural disaster; or

(d) Any public calamity.

SECTION 7. ORS 310.055 is amended to read:

310.055. (1) As used in the property tax laws of this state, "operating taxes" means ad valorem property taxes that are subject to a permanent rate limit under section 11, Article XI of the Oregon Constitution, or statutory rate limit under ORS 310.236 (4) or 310.237, if applicable.

(2) For the tax year beginning July 1, 1997, operating taxes consist of the sum of the following (or such lesser amount as is certified to the assessor under ORS 310.206 (4)(b):

(a) The total amount of ad valorem property taxes as provided in ORS 310.200 to 310.242, except

that the amount under this paragraph does not include:

(A) Local option taxes;

(B) Ad valorem property taxes used to repay taxing district bond or pension and disability plan obligations described in section 11 (5), Article XI of the Oregon Constitution;

(C) Ad valorem property taxes that would otherwise be subject to this paragraph, except that the taxes are of a taxing district other than a city, county or school district, and are used to support a hospital facility;

(D) Ad valorem property taxes that would otherwise be subject to this paragraph, except that the levy of the taxes was approved by voters prior to December 5, 1996, that met the voter participation requirements in section 11 (8), Article XI of the Oregon Constitution, and that are first imposed in the tax year beginning July 1, 1996, or July 1, 1997;

(E) Serial or one-year levies described in ORS 280.040 to 280.140 (1995 Edition) that replace levies that were imposed in the tax year beginning July 1, 1996, that were approved by voters in an election held after December 4, 1996, and that are first imposed for the tax year beginning July 1, 1997, if the rate or the amount of the levy is not greater than the rate or the amount of the replaced levy;

(F) Taxes imposed to pay principal and interest on exempt bonded indebtedness; and

(G) Urban renewal increment taxes; and

(b) The total amount of the following ad valorem property taxes, without reduction under ORS 310.200 to 310.242:

(A) Ad valorem property taxes of a taxing district other than a city, county or school district that are used to support a hospital facility;

(B) Ad valorem property taxes approved by voters prior to December 5, 1996, that met the voter participation requirements in section 11 (8), Article XI of the Oregon Constitution, and that are first imposed in the tax year beginning July 1, 1996, or July 1, 1997; and

(C) Serial or one-year levies described in ORS 280.040 to 280.140 (1995 Edition) that replace levies that were imposed in the tax year beginning July 1, 1996, that were approved by voters after December 4, 1996, and that are first imposed for the tax year beginning July 1, 1997, if the rate or the amount of the levy is not greater than the rate or the amount of the replaced levy.

(3) For tax years beginning on or after July 1, 1998, each taxing district is authorized to levy the full amount of the operating taxes of the district on all taxable property within the boundaries of the district. Operating taxes consist of:

(a) Ad valorem property taxes imposed at the rate established as the permanent rate limit or statutory rate limit, if applicable, for the taxing district or such lesser rate **or amount** as the taxing district certifies to the assessor under ORS 310.060; or

(b) If the district is imposing operating property taxes for the first time, ad valorem property taxes imposed at the rate established in the manner pro-

vided for by law as the permanent rate limit for the district or such lesser rate **or amount** as the taxing district may determine.

SECTION 8. ORS 310.060 is amended to read:

310.060. (1) Not later than July 15 of each year, a city, school district or other public corporation authorized to levy or impose a tax on property shall file a written notice certifying the ad valorem property tax rate or the estimated amount of ad valorem property taxes to be imposed by the taxing district and any other taxes on property imposed by the taxing district on property subject to ad valorem property taxation that are required or authorized to be placed on the assessment and tax roll for the current fiscal year. The notice must be accompanied by two copies of a lawfully adopted ordinance or resolution that categorizes the tax, fee, charge, assessment or toll as subject to or not subject to the limits of section 11b, Article XI of the Oregon Constitution, identified by the categories set forth in ORS 310.150.

(2) For ad valorem property taxes levied by a taxing district, the notice required under subsection (1) of this section must state as separate items:

(a) The taxing district's rate **or amount** of ad valorem property taxation that is within the permanent rate limitation imposed by section 11 (3), Article XI of the Oregon Constitution, or within the statutory rate limit determined in ORS 310.236 (4)(b) or 310.237, if applicable;

(b) The total rate or amount of the taxing district's local option taxes imposed pursuant to ORS 280.040 to 280.145 that have a term of five years or less and that are not for capital projects;

(c) The total **rate or** amount of the taxing district's local option taxes that are for capital projects;

(d) The total amount levied for the payment of bonded indebtedness or interest on bonded indebtedness that is not subject to limitation under section 11 (11) or section 11b, Article XI of the Oregon Constitution; and

(e) The total amount levied that is subject to section 11b, Article XI of the Oregon Constitution, but that is not subject to the permanent ad valorem property tax rate limit described in section 11 (3), Article XI of the Oregon Constitution, because the amount levied is to be used to repay:

(A) Principal and interest for a bond issued before December 5, 1996, and secured by a pledge or explicit commitment of ad valorem property taxes or a covenant to levy or collect ad valorem property taxes;

(B) Principal and interest for any other formal, written borrowing of moneys executed before December 5, 1996, for which ad valorem property tax revenues have been pledged or explicitly committed, or that are secured by a covenant to levy or collect ad valorem property taxes;

(C) Principal and interest for a bond issued to refund an obligation described in subparagraph (A) or (B) of this paragraph; or

(D) Local government pension and disability plan obligations that commit ad valorem property taxes.

(3)(a) The notice required under subsection (1) of this section must list each rate or amount subject to the limits of section 11b, Article XI of the Oregon Constitution, identified by the categories set forth in ORS 310.150.

(b) If an item described in subsection (2) of this section is allocable to more than one category described in ORS 310.150, the notice must list separately the portion of each item allocable to each category.

(4) For other taxes on property imposed by the taxing district, the notice must state:

(a) The total amount of money to be raised by each other tax, in the aggregate or on a property by property basis, as appropriate.

(b) Each amount that is subject to the limits of section 11b, Article XI of the Oregon Constitution, identified by the categories set forth in ORS 310.150.

(5) For a district authorized by law to place other fees, charges, assessments or tolls on the assessment and tax roll, the notice must state the total amount of money to be raised on a property by property basis.

(6) In addition to the notice required under subsection (1) of this section, a taxing district that is subject to the Local Budget Law shall also provide the documents required under ORS 294.458 (3).

(7) Not later than July 15 of each year, the taxing district shall give the notice and documents described in this section to the assessor of the county in which the principal office of the taxing district is located and, if the taxing district is located in more than one county, to the assessor of each county in which any part of the taxing district is located.

(8) The Department of Revenue shall prescribe the form of notice required under this section. All amounts contained in the notice must be stated in dollars and cents or ad valorem property tax rates in dollars and cents per thousand dollars of assessed value, as required by law. If the notice is given to the assessor, clerk or tax supervising and conservation commission of more than one county, a copy of each other such notice given must accompany every notice given.

(9) For good and sufficient reason, a county assessor may extend the time for the giving of the notice required under subsection (1) of this section or correcting an erroneous certification for the current year up to but not later than October 1 as the county assessor considers reasonable.

SECTION 9. This 2013 Act takes effect on the 91st day after the date on which the 2013 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.

Approved by the Governor June 13, 2013
Filed in the office of Secretary of State June 13, 2013
Effective date October 7, 2013