

Enrolled
Senate Bill 916

Sponsored by Senator MORSE

CHAPTER

AN ACT

Relating to local government budgets; creating new provisions; and amending ORS 203.115, 294.311, 294.361, 294.406, 294.421, 294.425, 294.450, 294.460 and 294.480.

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

SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS 294.305 to 294.565.

SECTION 2. County budgets must contain a summary of revenues and expenditures for major programs funded in part by state resources. The summary must include, at a minimum, functions related to assessment and taxation, community corrections, district attorneys, juvenile corrections and probation, public health, mental health and chemical dependency, veterans' services, roads and economic development. The summary must provide the total expenses for each program and identify the revenues used to fund the program from general county resources, state grants, federal grants, video lottery resources and other resources as applicable. The summary must include the revenues and expenditures in the adopted budget, revenues and expenditures in the prior year's adopted budget, and actual revenue and expenditure data from the two previous years.

SECTION 3. ORS 203.115 is amended to read:

203.115. A county governing body shall not change the amount of a fee it has set pursuant to statute within [one year] **six months** after setting that fee.

SECTION 4. ORS 294.311 is amended to read:

294.311. 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 included as a personal service expenditure where an approved deferred employee compensation plan is in effect for a municipal corporation.

(17) "Fiscal year" means for municipal corporations with the power to impose ad valorem property taxes, the fiscal year commencing on July 1 and closing on June 30, and for all other municipal corporations, an accounting period of 12 months ending on the last day of any month.

(18) "Fund balance" means the excess of the assets of a fund over its liabilities and reserves except in the case of funds subject to budgetary accounting where, prior to the end of a fiscal period, it represents the excess of the fund's assets and estimated revenues for the period over its liabilities, reserves and appropriations for the period.

(19) "General county resources" means resources from property taxes, state and federal shared revenue, beginning balances available for expenditure and interest not required to be allocated to specific programs or activities.

[(19)] **(20)** "Governing body" means the city council, board of commissioners, board of directors, county court or other managing board of a municipal corporation including a board managing a municipally owned public utility or a dock commission.

[(20)] **(21)** "Grant" means a donation or contribution of cash to a governmental unit by a third party.

[(21)] **(22)** "Intergovernmental entity" means an entity created under ORS 190.010 (5). The term includes any council of governments created prior to the enactment of ORS 190.010 (5).

[(22)] **(23)** "Internal service fund" means a fund properly authorized to finance, on a cost reimbursement basis, goods or services provided by one organizational unit of a municipal corporation to other organizational units of the municipal corporation.

[(23)] **(24)** "Liabilities" means probable future sacrifices of economic benefits, arising from present obligations of a municipal corporation to transfer assets or provide services to other entities in the future as a result of past transactions or events. The term does not include encumbrances.

[24)(a)] (25)(a) “Modified accrual basis” means the accrual basis of accounting adapted to the governmental fund-type measurement focus. Under this basis of accounting, revenues and other financial resource increments, such as bond proceeds, are recognized when they become susceptible to accrual, that is, when they become both measurable and available to finance expenditures in the current period.

(b) As used in this subsection, “available” means collectible in the current period or soon enough thereafter to be used to pay liabilities of the current period. Under this basis of accounting, expenditures are recognized when the fund liability is incurred except for:

(A) Inventories of material and supplies that may be considered expenditures either when purchased or when used; and

(B) Prepaid insurance and similar items that may be considered expenditures either when paid for or when consumed.

[25)] (26) “Municipal corporation” means any county, city, port, school district, union high school district, community college district and all other public or quasi-public corporations including a municipal utility or dock commission operated by a separate board or commission. “Municipal corporation” includes an intergovernmental entity or council of governments that proposes to impose or imposes ad valorem property taxes.

[26)] (27) “Net working capital” means the sum of the cash, cash equivalents, investments, accounts receivable expected to be converted to cash during the ensuing year or ensuing budget period, inventories, supplies and prepaid expenses less current liabilities and, if encumbrance accounting is adopted, reserve for encumbrances. The term is not applicable to the cash basis of accounting.

[27)] (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.

[28)] (29) “Object classification” means a grouping of expenditures on the basis of goods or services purchased, including, but not limited to, personal services, materials, supplies and equipment.

[29)] (30) “Operating taxes” has the meaning given that term in ORS 310.055.

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

[31)] (32) “Population” means the number of inhabitants of a municipal corporation according to certified estimates of population made by the State Board of Higher Education.

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

[33)] (34) “Public utility” means those public utility operations authorized by ORS chapter 225.

[34)] (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.

[35)] (36) “Receipts” means cash received unless otherwise qualified.

[36)] (37) “Reserve for encumbrances” means a reserve representing the segregation of a portion of a fund balance to provide for unliquidated encumbrances.

[(37)] **(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.

[(38)] **(39)** "Special revenue fund" means a fund properly authorized and used to finance particular activities from the receipts of specific taxes or other revenues.

SECTION 5. ORS 294.361 is amended to read:

294.361. (1) Each municipal corporation shall estimate in detail its budget resources for the ensuing year or ensuing budget period by funds and sources.

(2) Budget resources include but are not limited to:

(a) The balance of cash, cash equivalents and investments (in the case of a municipal corporation on the cash basis) or the net working capital (in the case of a municipal corporation on the accrual or modified accrual basis of accounting) that will remain in each fund on the last day of the current year or current budget period;

(b) Taxes;

(c) Fees;

(d) Licenses;

(e) Fines;

(f) Interest on deposits or on securities of any kind;

(g) Endowments;

(h) Annuities;

(i) Penalties;

(j) Sales of property or other assets or products of any kind;

(k) Delinquent taxes;

(L) Judgments;

(m) Damages;

(n) Rent;

(o) Premiums on sales of bonds;

(p) Reimbursement for services, road or other work performed for others;

(q) Transfer or reverter of unused balances of any kind;

(r) Reimbursement for services provided other funds;

(s) Rebates;

(t) Refunds of moneys heretofore paid on any account;

(u) Apportionment, grant, contribution, payment or allocation from the federal **government**, [or] state government or any [unit of government] **other governmental units**;

(v) Taxes for the ensuing year or ensuing budget period;

(w) Interfund revenue transfers; and

(x) Revenues from any and all other sources of whatsoever kind or character.

(3) Budget resources do not include:

(a) The estimate for the ensuing year or ensuing budget period of discounts under ORS 311.505.

(b) The estimate of uncollectible amounts of taxes, fees or charges for the ensuing year or ensuing budget period.

(c) Moneys accumulated under an approved employee deferred compensation plan and interest or investment returns earned on such moneys.

(d) Grants, gifts, bequests or devises transferred to a municipal corporation in trust for specific uses in the year of transfer. However, such grants, gifts, bequests or devises shall be included as budget resources if, by the time the budget committee approves the budget, the amount thereof that will be received in the ensuing year or ensuing budget period can be reasonably estimated. Such grants, gifts, bequests or devises may be placed in a trust and agency fund, to then be appropriated from such fund or funds.

SECTION 6. ORS 294.406 is amended to read:

294.406. (1) The budget committee shall approve the budget document as submitted by the budget officer or the budget document as revised and prepared by the budget committee. The budget docu-

ment as approved by the budget committee shall specify the ad valorem property tax amount or rate for all funds.

(2) In addition to the meetings held under ORS 294.401 (1), the budget committee may meet from time to time at its discretion. All meetings of the budget committee shall be open to the public. Except for a meeting of the budget committee held under ORS 294.401 (1), prior notice of each meeting of the budget committee shall be given at the same time as is required for notice of meetings of the governing body of the municipal corporation and may be given in the same manner as notice of meetings of the governing body or by any one or more of the methods described in ORS 294.311 [(34)] (35).

(3) The budget committee may demand and receive from any officer, employee or department of the municipal corporation any information the committee requires for the revision and preparation of the budget document. The budget committee may compel the attendance of any such officer or employee at its meetings.

SECTION 7. ORS 294.421 is amended to read:

294.421. (1) Subject to subsections (3) to (6) of this section, the summary of the budget document approved by the budget committee shall be published at least once prior to the time appointed for the proposed meeting of the governing body in accordance with ORS 294.430.

(2) Subject to subsections (3) to (6) of this section, the notice of the time and place at which the budget document as approved by the budget committee may be discussed shall be published by one or more of the methods described in ORS 294.311 [(34)] (35) not less than five days and not more than 30 days prior to the date of the meeting required by ORS 294.430.

(3) If no newspaper is published in the municipal corporation, a municipal corporation whose aggregate of estimated budget expenditures for the ensuing fiscal year does not exceed \$50,000 or for the ensuing budget period does not exceed \$100,000 may, in lieu of the publication and notice provided in subsections (1) and (2) of this section and in lieu of publication by one or more of the methods described in ORS 294.311 [(34)] (35), post the summaries and notices provided by ORS 294.416 or 294.418 in three conspicuous places in the municipal corporation for at least 20 days prior to the date of the meeting provided in ORS 294.430 and publish the notice provided by subsection (4) of this section.

(4) If notice is given as provided in subsection (3) of this section, the municipal corporation shall publish, by one or more of the methods described in ORS 294.311 [(34)] (35), a notice of the following:

(a) The date, time and place of the meeting provided by ORS 294.430;

(b) The place where the complete budget document is available for inspection by the general public during regular office hours;

(c) Total budget requirements and taxes proposed to be levied;

(d) Changes in the amount or rate of proposed ad valorem property taxes; and

(e) The place where copies of the complete budget or parts thereof may be obtained.

(5) The notice provided in subsection (4) of this section shall be published not less than five days and not more than 30 days prior to the date of the meeting provided in ORS 294.430.

(6) A municipal corporation having a population exceeding 200,000 inhabitants, or a municipal corporation with 200,000 or fewer inhabitants that requests the tax supervising and conservation commission to conduct the public hearing outlined in ORS 294.430, shall, in lieu of the publication and notice prescribed in subsection (1) of this section, submit its budget document, as approved by the budget committee, to the tax supervising and conservation commission within its county, if there is such a commission, at least 20 days prior to the legal date of the public hearing before the tax supervising and conservation commission on the budget, and the budget document shall thereupon be open to inspection by any taxpayer or citizen. The municipal corporation shall also publish a notice as provided in subsections (4) and (5) of this section.

SECTION 8. ORS 294.425 is amended to read:

294.425. (1) When a notice, budget summary or other document is required to be published under any provision of ORS 294.305 to 294.565, publication of the document shall be considered sufficient for all purposes if a good faith effort is made by the budget officer of the municipal corporation to

publish by any one or more of the methods described in ORS 294.311 [(34)] **(35)**, notwithstanding any defect in the publication, including but not limited to:

- (a) Typographical or scrivener's errors in the published material;
- (b) Failure of the published materials to be mailed or hand delivered to each street **and postal mailing** address within the jurisdictional boundaries of the municipal corporation;
- (c) Arithmetic errors in computing numerical information, including tax levies or tax rates;
- (d) Calculations of ad valorem property taxes not made in accordance with the applicable requirements of law; or
- (e) Failure to publish within the time periods required by law.

(2) At the first regularly scheduled meeting of the governing body of the municipal corporation that is held following the discovery of any publication error described in subsection (1)(a), (c) or (d) of this section, the budget officer shall advise the governing body in writing of the error and shall correct the error by testimony before the governing body at the meeting. If the error relates to the calculation of ad valorem property taxes, the budget officer shall immediately notify the county assessor of the error in writing, identifying the correct ad valorem property tax.

SECTION 9. ORS 294.450 is amended to read:

294.450. Subject to the provisions contained in the charter of any city or county or in any law relating to municipal corporations:

(1) Except as provided in subsection (2) of this section, transfers of appropriations may be made within a given fund when authorized by official resolution or ordinance of the governing body. The resolution or ordinance shall state the need for the transfer, the purpose for the authorized expenditure and the amount of appropriation transferred.

(2) Transfers of general operating contingency appropriations which in aggregate during a fiscal year or budget period exceed 15 percent of the total appropriations of the fund may be made only after adoption of a supplemental budget prepared for that purpose. All other transfers of general operating contingencies are subject to subsection (1) of this section.

(3) Transfers of appropriations or of appropriations and a like amount of budget resources may be made [*from the general fund*] **between funds** of the municipal corporation [*to any other fund*] when authorized by an official resolution or ordinance of the governing body. The resolution or ordinance shall state the need for the transfer, the purpose for the authorized expenditures embodied in the appropriation and the amount of appropriation transferred.

[(4) *It shall be unlawful to transfer appropriations from any special revenue fund to the general fund or any other special revenue fund.*]

[(5)] (4) The transfers referred to in this section apply to transfers which occur after the budget has been approved and which are made during the fiscal year or budget period for which the appropriations are made. Nothing in this section shall prohibit or regulate lawful transfers which have been budgeted in accordance with the local budget law.

[(6)] (5) When a municipal corporation imposes taxes, fees or charges that, in accordance with applicable law or an intergovernmental agreement under ORS chapter 190, are required to be paid, on a pass-through basis, to another municipal corporation, the municipal corporation that imposes the taxes, fees or charges shall include the taxes, fees or charges in its budget and shall appropriate the estimated amount generated thereby. The appropriation shall take the form of an expense of the municipal corporation that imposes the taxes, fees or charges. If the actual amount collected from the taxes, fees or charges during a fiscal year or budget period exceeds the estimated amount included in the imposing municipal corporation's budget for the fiscal year or budget period, then upon determining that such excess exists the municipal corporation imposing the taxes, fees or charges shall appropriate such excess by means of a resolution or ordinance of its governing body, and no further action shall be required under ORS 294.305 to 294.565 to lawfully budget, appropriate or expend such excess.

SECTION 10. ORS 294.460 is amended to read:

294.460. (1) It shall be lawful to loan money from any fund to any other fund of the municipal corporation whenever the loan is authorized by official resolution or ordinance of the governing

body. The loans shall be made in compliance with the applicable requirements and limitations of this section. Loans made under this section shall not be made from:

(a) Debt service reserve funds created to provide additional security for outstanding bonds or other borrowing obligations that the municipal corporation has covenanted with the holders of such bonds or other borrowing obligations to maintain at certain specified levels. However, nothing in this paragraph is intended or shall be construed to prohibit loans from any such debt service reserve fund to the extent that the aggregate outstanding amount of the loans does not exceed the amount by which the amount in such debt service reserve fund exceeds the amount the municipal corporation has covenanted to maintain in the reserve fund with the holders of the related bonds or other borrowing obligations;

(b) Debt service funds created to account for moneys needed to make annual debt service payments on outstanding bonds or other borrowing obligations; or

(c) Moneys credited to any fund when, under applicable constitutional provisions, the moneys are restricted to specific uses unless the purpose for which the loan is to be made is a use allowed under such constitutional provisions.

(2) The resolution or ordinance authorizing any interfund loan permitted under this section shall:

(a) State the fund from which the loan is to be made, the fund to which the loan is to be made, the purpose for which the loan is to be made and the principal amount of the loan.

(b) If the interfund loan is a capital loan, set forth a schedule under which the principal amount of the loan, together with interest thereon at the rate provided for in paragraph (c)(B) of this subsection, is to be budgeted and repaid to the lending fund. The schedule shall provide for the repayment in full of the loan over a term not to exceed [five] 10 years from the date the loan is made.

(c) If the interfund loan is a capital loan, provide that the loan shall bear interest at an annual rate equal to:

(A) The rate of return on moneys invested in the local government investment pool under ORS 294.805 to 294.895, as reported under ORS 294.875, immediately prior to the adoption of the ordinance or resolution authorizing the loan; or

(B) Such other rate as the governing body may determine.

(d) If the interfund loan is an operating loan, provide that the money loaned shall be budgeted and repaid to the fund from which the money was borrowed by the end of the ensuing year or ensuing budget period.

(3) The payment of any operating loans not repaid in the year or budget period in which the operating loan was made shall be budgeted as a requirement in the ensuing year or ensuing budget period.

(4) It shall be lawful to commingle cash balances of funds so long as all such fund moneys are segregated in the budget and accounting records.

(5) As used in this section:

(a) "Capital loan" means any interfund loan, or portion thereof, made for the purpose of financing the design, acquisition, construction, installation or improvement of real or personal property and not for the purpose of paying operating expenses.

(b) "Operating loan" means any interfund loan, or portion thereof, that is not a capital loan, including any interfund loan, or portion thereof, made for the purpose of paying operating expenses.

SECTION 11. ORS 294.480 is amended to read:

294.480. (1) Notwithstanding requirements as to estimates of and limitation on expenditures, the governing body of any municipal corporation may make a supplemental budget for the fiscal year or budget period for which the regular budget has been prepared under one or more of the following circumstances:

(a) An occurrence or condition which had not been ascertained at the time of the preparation of a budget for the current year or current budget period which requires a change in financial planning.

(b) A pressing necessity which [*was*] **could not reasonably be** foreseen at the time of the preparation of the budget for the current year or current budget period which requires prompt action.

(c) Funds were made available by another unit of federal, state or local government and the availability of such funds could not have been **reasonably** ascertained at the time of the preparation of the budget for the current year or current budget period.

(d) A request for services or facilities, the cost of which shall be supplied by a private individual, corporation or company or by another governmental unit and the amount of the request could not have been accurately ascertained at the time of the preparation of the budget for the current year or current budget period.

(e) Proceeds from the involuntary destruction, involuntary conversion, or sale of property has necessitated the immediate purchase, construction or acquisition of different facilities in order to carry on the governmental operation.

(f) Ad valorem property taxes are received during the fiscal year or budget period in an amount sufficiently greater than the amount estimated to be collected that the difference will significantly affect the level of government operations to be funded by those taxes as provided in the budget for the current year or current budget period.

(g) A local option tax described in ORS 294.437 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.

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

(3) When the estimated expenditures contained in a supplemental budget for a fiscal year or budget period differ by less than 10 percent of any one of the individual funds contained in the regular budget for that fiscal year or budget period that is being changed in the supplemental budget, the governing body of the municipal corporation may adopt the supplemental budget at a regular meeting of the governing body. Notice of [*such*] **the** regular meeting, including sufficient detail on revenues and expenditures, shall be published by one or more of the methods permitted under ORS 294.311 [(34)] **(35)** not less than five days prior to the meeting. Following [*such*] **the** meeting, the governing body shall make additional appropriations and may thereafter make additional expenditures as authorized by such appropriations.

(4) When the estimated expenditures contained in a supplemental budget for a fiscal year or budget period differ by 10 percent or more of any one of the individual funds contained in the regular budget for that fiscal year or budget period that is being changed in the supplemental budget, the supplemental budget, or a summary thereof, shall be published, or, in counties having a tax supervising and conservation commission, shall be submitted to the tax supervising and conservation commission within the county. The governing body, or, where applicable, the tax supervising and conservation commission shall then hold a public hearing on the supplemental budget. Publication of the budget and notice of the hearing shall be given in the manner provided in ORS 294.421. Following such hearing, the governing body shall make additional appropriations and may thereafter make additional expenditures as authorized by such appropriations.

(5) Except as provided in ORS 294.437, 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.

Passed by Senate May 4, 2009

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Secretary of Senate

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President of Senate

Passed by House May 29, 2009

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Speaker of House

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State