

SOURCE: CHAPTER 8 OF THE LEAGUE OF WISCONSIN MUNICIPALITIES' HANDBOOK FOR WISCONSIN MUNICIPAL OFFICIALS

FINANCE AND TAXATION

INTRODUCTION

"Decisions about money are among the most important ones that elected officials make." — James Donoghue, "Local Government in Wisconsin," Wisconsin Blue Book 1979-80.

"Perhaps the biggest challenge facing local government is determining what services to offer and how to fund them." — Susan Paddock, "The Changing World of Wisconsin Local Government," Wisconsin Blue Book 1997-98.

Municipal policy decisions are almost always tied to decisions about money. This chapter focuses on how Wisconsin municipalities make policy decisions in the context of preparing, adopting and administering an annual budget. It also examines sources of revenue available to Wisconsin municipalities, property tax administration, and the process municipalities must follow when paying bills and other claims. The related topic of municipal borrowing is dealt with in the next chapter.

Budgeting

Municipal governing bodies must allocate scarce resources to programs, services and capital assets through the budget process. Consequently, it is one of the most important activities undertaken by local governments.

THE STATE BUDGETING LAW

State law requires all municipalities in Wisconsin to adopt an annual budget. See secs. 65.01 and 65.90, Stats. A budget is a projected financial plan or "fiscal blueprint" that outlines how municipal funds will be raised and spent. *Financial Administration Handbook for Small Wisconsin Towns and Villages*, Wisconsin Department of Revenue (June 1991). Technically, for purposes of complying with state law, a budget is an ordinance or resolution enacted by the governing body that meets the requirements of sec. 65.90(2), Stats. (The budget requirements applicable to the City of Milwaukee are set forth in a different statute, sec. 65.05, Stats.)

Under sec. 65.90(2), Stats., the following information must be included in a municipal budget:

- all existing indebtedness and all anticipated revenue from all sources during the ensuing year;

- all proposed appropriations for each department, activity and reserve account during the ensuing year;
- actual revenues and expenditures for the preceding year, actual revenues and expenditures for not less than the first 6 months of the current year and estimated revenues and expenditures for the balance of the current year;
- all anticipated unexpended or unappropriated fund balances, and surpluses.

BUDGET SUMMARY AND BUDGET HEARING

A municipal governing body must, before adopting the annual budget, hold a public hearing on the proposed budget to allow citizen comment. To inform the public about the proposed budget, the municipality must publish the following information as a class 1 notice under ch. 985, Stats., at least fifteen days before the date of the public hearing on the budget:

- A budget summary that includes information specified by state law;
- A notice of the place where the proposed budget in detail may be inspected (e.g., the clerk's office);
- A notice of the time and place of the budget hearing.

Sec. 65.90(3)(a), Stats.

The published budget summary must contain the following information for the current budget and the proposed budget, and must also include the percentage change between the current and proposed budgets:

- General fund expenditures in the following categories: general government; public safety; public works; health and human services; culture, recreation and education; conservation and development; capital outlay; debt service; other financing uses.
- General fund revenues from the following sources: taxes; special assessments; intergovernmental revenues; licenses and permits; fines, forfeitures and penalties; public charges for services; intergovernmental charges; miscellaneous revenue; other financing sources.
- All beginning and year-end governmental and proprietary fund balances.
- The contribution of the property tax to each governmental fund and to each proprietary fund that receives property tax revenue and the totals for all funds.
- Revenue and expenditure totals, by fund, for each governmental fund, and for each proprietary fund and the revenue and expenditure totals for all funds combined.
- In addition, the budget summary must include "an itemization of proposed increases and decreases to the current year budget due to new or discontinued activities or functions."

Sec. 65.90(3)(bm), Stats. A municipality may publish additional budget summary information, but the additional information must be reported separately from the statutorily required information. Sec. 65.90(3)(d), Stats.

A public hearing on the proposed budget must be conducted not less than fifteen days after the budget summary is published. At this meeting "any resident or taxpayer of the governmental unit shall have an opportunity to be heard on the proposed budget." Sec. 65.90(4), Stats. Sometime after the public hearing, either at the same meeting or at a subsequent one, the budget ordinance or resolution is formally adopted by the governing body.

In cities, the budget ordinance or resolution is submitted to the mayor for his or her approval. Mayors are authorized to veto actions of the common council. Sec. 62.09(8)(c), Stats. If the mayor vetoes the budget, it is sent back to the council where a two-thirds vote of all the members is required to override the veto.

Statutory law does not authorize a partial veto by a mayor. However, it is the League's view that cities may rely on their constitutional home rule powers to enact a charter ordinance providing for partial line or item veto of the municipal budget by the mayor. League opinion Ordinances & Resolutions 353. See such a sample charter ordinance at the end of this chapter.

Once a budget has been adopted by the governing body and, in cities, approved by the mayor, it provides the authorization to levy taxes and spend the authorized appropriations. The provisions of an adopted budget are obligatory and may be amended only by following certain procedures described below.

DEADLINE FOR ADOPTING A MUNICIPAL BUDGET

State law does not set forth a specific date by which a municipal budget must be enacted. Certainly the budget must be adopted by the end of the year because villages and cities operate on a calendar fiscal year. Secs. 61.51(3), and 62.12(1), Stats. For all practical purposes, however, the budget should be adopted by the end of November or, at the latest, the beginning of December. Otherwise, the municipality will be unable to comply with certain other deadlines relating to the property tax collection process. For example, village boards must determine the village's tax levy by December 15. Sec. 61.46, Stats. Also, the municipal clerk must transfer the tax roll to the municipal treasurer by December 8. Sec. 74.03(1), Stats. (This deadline is extended to the third Monday in December if the municipality has in effect a policy of issuing refund checks to taxpayers whose escrow check for property taxes exceeds the actual tax bill within fifteen business days after receiving the escrow payment. Sec. 74.03(2), Stats.)

In addition, the clerk must return the annual "Statement of Taxes," showing all taxes levied in the municipality, to the Department of Revenue (DOR) and county treasurer on or before the third Monday in December. Sec. 69.61, Stats.

Moreover, many municipalities have their tax bills printed by the county or a private service provider. In such situations, the municipality will need to have its budget adopted in time to comply with the county's or private service provider's

deadline for receiving the tax roll. Thus, practically speaking, the deadline for adopting a budget is dictated by other deadlines, both statutory and otherwise, designed to ensure that tax bills are sent to taxpayers by Christmas so that taxpayers can pay their property tax bills before the end of the year.

BUDGET CHANGES

The law on changing an adopted budget is important because it is a key consideration in deciding how detailed the budget should be. A two-thirds vote of the entire governing body is required to change an adopted budget, and a class 1 notice of the change must be published under ch. 985 within ten days after the change is made or the change is invalid. Sec. 65.90(5)(a), Stats. This process must be followed when altering the amount of tax to be levied, the amounts of the various appropriations and the purposes for such appropriations stated in the budget. However, transfers from the contingency fund to other budgeted accounts may be done under normal voting requirements, without the necessity of an extraordinary vote and a class 1 notice publication 76 Op. Att'y Gen. 145 (1987); League opinion Financial Procedure 182.

NON-LAPSING RESERVE FUNDS

In general, municipalities may not accumulate unappropriated surplus funds. However, cities and villages may:

1. maintain reasonable amounts of unappropriated funds on hand to meet immediate cash flow needs, and
2. accumulate needed capital in non-lapsing funds to finance specifically identified future capital expenditures (e.g., new fire truck, village hall or library).

Section 65.90(1), Stats., provides that every municipality must annually, "prior to the determination of the sum to be financed in whole or in part by a general property tax, **funds on hand** or estimated revenues from any source, formulate a budget and hold public hearings thereon." (Emphasis added.) In *Immega v. City of Elkhorn*, 253 Wis. 282, 34 N.W.2d 101 (1948), the Wisconsin Supreme Court held that year-end balances in accounts, if not designated for any particular purpose, must be considered "funds on hand" under sec. 65.90(1), Stats., and used to defray budgetary costs and reduce the tax levy for the ensuing year. In *Immega*, a county board attempted to set aside funds ostensibly for the purpose of building a new courthouse but failed to actually appropriate any funds for the construction of a new courthouse or toward a bond issue for such construction. The *Immega* court held that it was inappropriate for a local government to levy a tax to enrich the public treasury or to accumulate funds for no specific purpose. The court concluded that the unappropriated surplus must be treated as "funds on hand" and could not be carried forward as a separate sinking fund into the new fiscal year but rather must be used to reduce taxes.

The general rule announced in *Immega* against accumulating surpluses for undesignated purposes was first qualified in *Fiore v. City of Madison*, 264 Wis.

482, 59 N.W.2d 460 (1953). In *Fiore*, a taxpayer sued for a refund of taxes claiming that approximately \$600,000 appropriated by the city to a city-county non-lapsing building reserve fund should have been considered unallocated surplus "funds on hand" under sec. 65.90(1), Stats., and used to defray budgetary expenses. The *Fiore* court disagreed and held that, unlike the county board in *Immega*, the Madison city council had adopted a resolution appropriating approximately \$600,000 into a city-county non-lapsing building reserve fund which it had lawfully created pursuant to its broad home rule powers under sec. 62.11(5), Stats. The court concluded that because of the appropriation, the amount ceased to be an unallocated surplus available to defray budget expenses.

With regard to the claim that the city failed to take into account other large sums of unallocated surplus funds when fixing the tax rate, the *Fiore* court agreed that if there were such funds they must be applied to finance the budget. However, the court said that ordinary business principles permit municipalities to retain reasonable working cash balances in the municipal treasury. In other words, every "last cent [of unallocated surplus funds] need not be devoted to reduction of taxes in aid of the budget." 264 Wis. at 486.

More recent judicial decisions and an attorney general opinion have further qualified the general prohibition in *Immega* against accumulating unappropriated surpluses. In *Blue Top Motel, Inc. v. City of Stevens Point*, 107 Wis.2d 392, 320 N.W.2d 172 (1982), the Wisconsin Supreme Court analyzed the *Immega* and *Fiore* cases as follows: "Taken together, *Immega* and *Fiore* establish generally that a city may retain funds to meet its needs, but may not simply carry a large surplus which has not been designated for any particular use." 320 N.W.2d at 175. In *Barth v. Monroe Board of Education*, 108 Wis.2d 511, 322 N.W.2d 694, 698 (Ct. App. 1982), the Wisconsin court of appeals stated in dicta that "[i]t is possible that a sinking fund dedicated to all current and future capital expenditures without relation to specific capital projects has so little public purpose that it violates the prohibition against taxing for purposes other than a public purpose." The *Barth* court declined to resolve the matter, however, because the funds at issue in the case were specifically dedicated by the school board to the construction of a swimming pool before the suit was filed.

The Wisconsin Attorney General reads the *Immega*, *Fiore*, *Blue Top Motel* and *Barth* line of cases to mean that while municipalities may not lawfully create and accumulate unappropriated surplus funds, they may "maintain reasonable amounts necessary in the exercise of sound business principles to meet their immediate cash flow needs during the current budgetary period or to accumulate needed capital in non-lapsing funds to finance specifically identified future capital expenditures." 76 Op. Att'y Gen. 77 (1987).

BOARD OF ESTIMATES BUDGET SYSTEM

The budget development and adoption process set forth in sec. 65.90, Stats., applies to nearly all Wisconsin municipalities. However, as mentioned above, the City of Milwaukee follows the budget system set forth in secs. 65.01 - 65.20, Stats. Any other city may, by ordinance adopted by three-fourths of all the

members of the common council, adopt the budget development process set forth in secs. 65.02 - 65.04, Stats. Only a few municipalities, such as the City of Madison, have done so. Under this alternative budget development process, the city must create a Board of Estimates made up of key city officers such as the mayor, president of the common council, city attorney, and comptroller. The Board of Estimates receives budget requests from each city department and prepares and submits a proposed budget to the common council by October 25 each year. The proposed budget must comply with sec. 65.02(5) - (11), Stats.

RECOMMENDED BUDGET PRACTICES

So far, this discussion of municipal budgeting has focused almost exclusively on the minimum requirements imposed by state law regarding the adoption of an annual budget. As the National Advisory Council On State and Local Budgeting (NACSLB) explains in its *Recommended Budget Practices: A Framework for Improved State and Local Government Budgeting* (1998), published by the Government Finance Officers Association, "[a] good budget process is far more than the preparation of a legal document that appropriates funds for a series of line items. Good budgeting is a broadly defined process that has political, managerial, planning, communication, and financial dimensions."

Section 65.90, Stats., is silent about how a municipality is to develop a proposed budget for consideration by the governing body. This absence of a statutorily prescribed process for preparing a budget leaves substantial discretion to local governments in determining their own budgeting procedures. Consequently, there are wide differences in budget practices among municipalities.

Many municipalities have developed formal procedures set out in ordinances or resolutions and in guidelines furnished to department heads. A sample "budget system" ordinance appears at the end of this chapter. The budget process in smaller municipalities is often less formal. Nevertheless, in most, if not all, municipalities, the process of developing a budget "is governed by a mixture of law, tradition, agreements, understandings — and politics." Donoghue, "Local Government in Wisconsin," *Wisconsin Blue Book 1979-80*.

Some communities treat budgeting as a seasonal occurrence — something to be done each October and November. However, as the discussion below of recommended budget practices implies, the budget process is a continuous, year-round process that involves three main components:

1. preparation;
2. consideration and adoption; and
3. administration.

In many communities, the budget process begins early in the calendar year when each department head or local official reviews his or her operations for the current and previous year and prepares a budget request for the ensuing year. In some cases, the municipal clerk or administrator may do this for some departments. The municipal clerk, administrator or finance officer compiles the

requests. The compilation then is reviewed by the finance or budget committee of the governing body and a preliminary budget is developed. This is a legislative budget.

A number of other municipalities follow an executive budget system, where the municipal administrator, mayor or manager reviews the budget requests. The chief executive considers the whole budget and may make reductions or additions. After this process, the chief executive presents the recommended budget to the governing body. In some instances, the executive budget is accompanied by an executive budget message, which highlights the major goals of the budget and any significant anticipated or proposed changes in revenues or expenditures.

Executive budgets are most common in cities with a council-manager form of government or a full-time mayor. Some municipalities with an administrator also use the executive budget. The council or village board may review the preliminary budget either by referring the budget to a standing committee for consideration or by having the entire governing body undertake the budget review. Following this review, the reviewing body develops a proposed budget and a public hearing is held. The governing body then adopts the budget, which includes a levy of the necessary property taxes.

FEATURES OF A GOOD BUDGET PROCESS

Some or all of the NACSLB's fifty-nine recommended budget practices might serve as a blueprint for Wisconsin local governments seeking to improve their budget process.

As the NACSLB points out in the introduction to its recommended budget practices, "the quality of decisions resulting from the budget process and the level of their acceptance depends on the characteristics of the budget process that is used." Thus:

A budget process that is well-integrated with other activities of government, such as the planning and management functions, will provide better financial and program decisions and lead to improved governmental operations. A process that effectively involves all stakeholders — elected officials, governmental administrators, employees and their representatives, citizen groups, and business leaders—and reflects their needs and priorities will serve as a positive force in maintaining good public relations and enhancing citizens' and other stakeholders' overall impression of government.

Recommended Budget Practices: A Framework for Improved State and Local Government Budgeting (1998), published by the Government Finance Officers Association.

The NACSLB document further explains that a good budget process has the following essential features:

- Incorporates a long-term perspective.
- Establishes linkages to broad organizational goals.
- Focuses budget decisions on results and outcomes.
- Involves and promotes effective communication with stakeholders.
- Provide incentives to government management and employees.

These key characteristics of good budgeting make clear that the budget process is more than an annual exercise in balancing revenues and expenditures. It is strategic in nature, encompassing a multi-year financial and operating plan that allocates resources on the basis of identified goals. A good budget process moves beyond the traditional concept of line item expenditure control, providing incentives and flexibility to managers that can lead to improved program efficiency and effectiveness.

Id.

Finally, the NACSLB's list of recommended budget practices emphasizes that communication and involvement with citizens and other stakeholders is integral to the budget process. The term "stakeholder" refers to anyone who is affected by or has a stake in government. This term includes citizens, customers, elected officials, management, employees and their representatives (whether unions or other agents), businesses, other governments, and the media. As the NACSLB document explains:

It is vital that the budget process include all stakeholders. The budget process should accomplish the following:

- Involve stakeholders.
- Identify stakeholder issues and concerns.
- Achieve stakeholder buy-in to the overall budgeting process.
- Achieve stakeholder buy-in to decisions related to goals, services, and resource utilization.
- Report to stakeholders on services and resource utilization.
- Serve generally to enhance the stakeholders' view of government.

The importance of this aspect of the budget process cannot be overstated. Regular and frequent reporting is necessary to provide accountability, educate and inform stakeholders, and improve their confidence in the government. Communication and involvement is an essential component of every aspect of the budget process.

Id.

A copy of the NACSLB's *Recommended Budget Practices: A Framework for Improved State and Local Governmental Budgeting* is available from the Government Finance Officers Association (GFOA) for a small fee. Other

Handbook for Wisconsin Municipal Officials

budgeting guidebooks available from the GFOA are: *The Operating Budget: A Guide for Smaller Governments*; *Capital Improvement Programming: A Guide for Smaller Governments*; and *The Best of Governmental Budgeting: A Guide to Preparing Budget Documents*. The GFOA's telephone number is (312) 977-9700. Its web site is <http://www.gfoa.org/>.