Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

Author: Sam Benham, Division Chief
Reviewer: Mackenzie Damon, Attorney

Volume 135
January 8, 2024

Political Subdivision Budgeting Process

Political subdivisions are subject to requirements, imposed by the state, designed to encourage responsible spending and budgeting. The process of political subdivision budgeting is overseen by a county budget commission generally consisting of the county auditor, treasurer, and prosecuting attorney. This brief broadly discusses the timelines and procedures involved in the political subdivision budgeting process.

Contents

Origins and development 1
The budget process: taxing subdivisions 2
  Step 1: The tax budget 2
    Waiver 3
  Step 2: Consideration by county budget commission 3
    Approval of tax levies 3
    Evaluation and adjustment of tax budgets 4
    Apportionment of LGF funds 4
  Step 3: Official certificate of estimated resources 5
The budget process: Non-taxing subdivisions 5
Appeal of budget commission actions 5
Subdivision appropriations 6

Origins and development

Modern political subdivision budgeting requirements trace their origins to 1911 legislation historically referred to as the “Smith one percent law” or “Smith law.” That law, in response to local government budgeting practices perceived as irresponsible, required taxing authorities to submit an annual budget to the county auditor.[1] These budgets were to be

[1] See Timothy S. Hogan, “Annual Report of the Attorney General to the Governor of the State of Ohio for the period from January 1, 1911 to January 1, 1912,” pg. xiv (1913) (“The policy of the Smith Law, with respect to the appropriation and expenditure of the proceeds of taxation, has been amply justified, if by

scrutinized by a new board composed of the county auditor and prosecuting attorney and the mayor of the largest municipality in the county (replaced by the county treasurer in 1915). This body was collectively referred to as the budget commissioners. Initially, these commissioners were tasked with trimming subdivisions' budgets if they exceeded the amount of available tax revenue for the year. To compel responsible spending, the Smith law also required all taxing subdivisions to operate on a cash basis through semi-annual appropriations of existing funds.[2]

Over time, the role and functions of the county budget commission, as these budget commissioners would later be labeled, expanded and developed. So too did provisions governing local subdivision budgeting and appropriations.

The budget process: taxing subdivisions

Political subdivision budgeting procedures differ depending on whether the subdivision levies property taxes. For taxing subdivisions, the process commences roughly six months before the beginning of a new fiscal year and is designed, in part, to give subdivisions time to assess their financial condition in time to place a tax levy on the ballot, if necessary.

Step 1: The tax budget

With certain exceptions, the beginning point of the budget process for a political subdivision levying a property tax is the preparation of the so-called "tax budget" for the following fiscal year. This budget must be prepared and adopted by the subdivision's governing body, or "taxing authority," approximately six months before the subdivision's next fiscal year - January 15 for subdivisions mirroring the state's fiscal year and July 15 for subdivisions with fiscal years that align with the calendar year.[3] The subdivision is required to publicize the proposed budget and hold at least one public hearing before its adoption.[4]

Broadly speaking, the tax budget is an aspirational document reflecting a subdivision's spending priorities for the approaching fiscal year. It contains a breakdown of the subdivision's necessary operating and capital expenses for the following fiscal year, as well as revenue estimates from property tax and other sources for that year.[5] A tax budget does not authorize a subdivision to spend money - that authority comes from an appropriation measure adopted later by the subdivision (see **Subdivision appropriations**, below).

---

no other consideration, by the disclosures which have been made as to the lamentable condition of the finances of many of the counties of this State. I do not think I am exaggerating when I say that some counties have been spending their money more than a year before it was received from taxation."); see also *State ex rel. Menning v. Zangerle*, 95 Ohio St. 1, 16 (1916) (Donahue, J., dissenting) ("The Smith one per cent law . . . was aimed at extravagance in the current ordinary expenses of administration.").

[2] H.B. 186 of the 79th General Assembly.

[3] All subdivisions except school districts and Cincinnati have a calendar fiscal year.

[4] R.C. 5705.30.

[5] R.C. 5705.29.

Besides playing a role in the subdivision budgeting process, the tax budget affects the allocation of funds from the Local Government Fund (LGF) in counties that allocate LGF funds according to the default statutory formula. An alternative LGF distribution formula adopted by the budget commission may factor in subdivisions' tax budgets.[6]

Waiver

The requirement for a taxing subdivision to prepare tax budgets was largely mandatory until 2002, when the General Assembly authorized county budget commissions to waive that requirement. But waiver of the tax budget requirement still requires a taxing subdivision to provide the budget commission with any information necessary to ensure that the commission can perform its duties (see below). As a practical and procedural matter, the submission of a tax budget is not necessary to enforce the budgeting and fiscal restrictions imposed on local subdivisions.[7]

Step 2: Consideration by county budget commission

After adopting the tax budget, the subdivision submits it to the county auditor for consideration by the county budget commission, which consists of the county treasurer, prosecuting attorney, and auditor, who serves as the secretary of the budget commission and may appoint staff to assist the commission.[8] (The tax budget of a subdivision overlapping two or more counties is evaluated by a joint budget commission consisting of each such county's auditor, treasurer, and prosecuting attorney.[9]) The budget commission is required to meet in August (for subdivisions with calendar fiscal years) or February (for other subdivisions) to approve the levy of property taxes, to evaluate and adjust tax budget expenditures to keep them within projected revenues, and to allocate county LGF funds.

Approval of tax levies

One of the primary functions of the budget commission is to approve certain property tax levies. In particular, the commission must, upon finding them to be properly authorized, approve the levy of the following:

1. Levies in excess of the ten-mill limitation ("voted levies");
2. Inside millage debt levies;
3. Guaranteed inside millage for subdivisions receiving inside millage between 1929 and 1933.[10]

[6] R.C. 5747.51 and 5747.52. Currently, ten counties - Coshocton, Darke, Monroe, Morrow, Paulding, Pickaway, Pike, Sandusky, Union, Vinton - use the default statutory LGF formula, and the other 78 use an alternative formula.

[7] R.C. 5705.281; H.B. 129 of the 124th General Assembly.

[8] R.C. 5705.27 and 5705.30.

[9] R.C. 5705.48.

[10] R.C. 5705.31.

Inside millage that is not allocated as debt levies or guaranteed millage, so-called “free” millage, may be allocated to subdivisions at the budget commission’s discretion, provided that the need for such millage is shown in the subdivision’s tax budget.[11] In addition, under certain circumstances the commission may increase the guaranteed inside millage of a subdivision for the purpose of paying debt service.[12]

Reduction of required millage

While the budget commission is not able to unilaterally reduce the rate of a levy it is required to approve, e.g., a voted levy, taxing authorities may do so in two ways. First, for a voted tax, a taxing authority may simply use its authority to levy less than the full rate of the voted tax.[13] Similarly, a subdivision may request reduction of guaranteed inside millage.[14] Alternatively, a taxing authority may use the budget commission to indirectly reduce the rate of a levy the commission would otherwise be required to approve. The budget commission is required to reduce the rate of such a levy if it was “not properly authorized,” which occurs if a taxing unit does not adequately account for the levy proceeds in its tax budget.[15] Thus, the subdivision could simply reduce its tax budget below what the full proceeds from the levy would fund. Then the budget commission would be required to reduce the tax rate to conform to the subdivision’s reduced tax budget.[16]

Evaluation and adjustment of tax budgets

In addition to approving tax levies and allocating free inside millage, the budget commission is charged with ensuring projected property tax receipts align with estimated expenditures in the tax budget and determining the amount that the subdivision may appropriate for each category of expenditures. If it finds discrepancies, the commission may adjust those estimates accordingly.[17]

Apportionment of LGF funds

Another function of the budget commission is to allocate projected county LGF funds among the county and municipal corporations and townships in the county, pursuant to a statutory formula or an alternative formula adopted by the commission. The commission may

[11] R.C. 5705.06, 5705.32, and 5705.341; *Washington Local School Dist. v. Budget Comm’n*, 73 Ohio St.3d 700, 703 (1995).

[12] R.C. 5705.31(D) and 5705.312.

[13] R.C. 5705.26.

[14] R.C. 5705.31(D).

[15] R.C. 5705.341.

[16] R.C. 5705.31(D).

[17] R.C. 5705.32(A).

adjust formula allocations if it finds the recipient subdivision does not actually need its full LGF allocation, as expressed in its tax budget.[18]

Step 3: Official certificate of estimated resources

The budget commission is required to finish its work by September or March of each year, depending on the subdivision's fiscal year.[19] Then the commission must certify its approvals and adjustments to the political subdivision. These certifications must be amended if voters later approve a new levy for the current year.[20]

In addition to certifying approved tax rates and balances, the budget commission is required to send each taxing subdivision an "official certificate of estimated resources," which summarizes the subdivision's total estimated resources that are available for appropriation in the subdivision's upcoming fiscal year. A subdivision is required to adjust its tax budget to fit the estimates provided in that certificate, which serves as the basis for the subdivision's appropriation measure for the next fiscal year (see below).[21]

If the subdivision determines that the revenue projected in the official certificate will be below or in excess of that projection, it may notify the budget commission, which may issue an amended certificate. However, a subdivision may not spend excess revenue received during a fiscal year without receiving an amended official certificate from the budget commission.[22]

The budget process: Nontaxing subdivisions

Political subdivisions that do not levy a property tax are not required to submit tax budgets and go through the formal budget process to which taxing subdivisions are subject. However, nontaxing subdivisions are still required to prepare annual "operating budgets" in advance of each fiscal year.[23] In addition, such subdivisions remain subject to other budget-related requirements. For example, the subdivision is required to calculate its projected revenue and adopt an annual appropriation measure.[24]

Appeal of budget commission actions

Current law authorizes taxpayers and subdivisions to challenge actions of a county budget commission by filing an appeal with the Board of Tax Appeals. A subdivision may appeal any action of the budget commission the subdivision finds to be unsatisfactory while a taxpayer is limited to challenging only those actions related to the approval of tax rates on the basis that either the approval is contrary to law or the tax rate is not necessary to fulfill the subdivision's

[18] R.C. 5747.51(B) and 5747.53.

[19] R.C. 5705.27 and 5705.35.

[20] R.C. 5705.34.

[21] R.C. 5705.35.

[22] R.C. 5705.36.

[23] R.C. 5705.28(B).

[24] R.C. 5705.28(B)(2), 5705.36, and 5705.38.

revenue needs, as reflected in its tax budget.[25] (Recall that the budget commission is required to allocate free inside millage and reduce other voted and unvoted millage on the basis of a subdivision's budgetary needs.)

Subdivision appropriations

All political subdivisions, taxing and nontaxing, are subject to state requirements that limit their ability to appropriate and spend funds. Similar to the state biennial budget process, current law requires each subdivision to adopt an annual measure around the beginning of each subdivision's fiscal year appropriating funds for each of the subdivision's offices or departments. Appropriations are based on and limited by the subdivision's projected revenue, as reflected in its revised tax budget and certificate of estimated resources received from the budget commission.[26] A subdivision may amend its initial appropriations measure.[27] A school district, unlike other subdivisions, is required to submit a five-year projection of revenue and expenditures to the Department of Education and Workforce and the Auditor of State.[28]

With certain exceptions, before a subdivision may spend money or enter into a contract, the subdivision's fiscal officer must certify that the subdivision has proper appropriation authority for that expense or contract and that the treasury has adequate revenue to fund the expense or contract.[29] Before a school district may adopt an appropriations measure or salary schedule or enter into certain contracts, the district must certify that it has sufficient revenue to maintain its personnel and programs for the entire school year.[30]

---

[25] R.C. 5705.341, 5705.37, and 5747.55.

[26] R.C. 5705.38 and 5705.39.

[27] R.C. 5705.40.

[28] R.C. 5705.391.

[29] R.C. 5705.41(D).

[30] R.C. 5705.412.