

ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE
BILL NO. 2796

By: Nations of the House

and

Garrison of the Senate

An Act relating to cities and towns; amending 11 O.S. 2001, Sections 17-204, as amended by Section 1, Chapter 98, O.S.L. 2002, 17-206, as last amended by Section 1, Chapter 440, O.S.L. 2002, 17-207, as amended by Section 3, Chapter 98, O.S.L. 2002, 17-209, as amended by Section 4, Chapter 98, O.S.L. 2002, 17-215, as amended by Section 7, Chapter 98, O.S.L. 2002 and 17-216, as amended by Section 8, Chapter 98, O.S.L. 2002 (11 O.S. Supp. 2005, Sections 17-204, 17-206, 17-207, 17-209, 17-215 and 17-216), which relate to the Municipal Budget Act; modifying certain definitions; adding certain alternative to budget format and content; clarifying certain accounting practice by municipalities; adding certain alternative for adoption of appropriation by a municipality; deleting reference to certain definition; modifying reference to certain terms; clarifying prohibition on certain revenues and balances; modifying source of certain appropriation; modifying reference to certain terms; deleting reference to certain term; providing an effective date; and declaring an emergency.

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and entire bill and insert

"An Act relating to cities and towns; providing budget format options for budgets prepared pursuant to certain act; amending 11 O.S. 2001, Sections 17-204, as amended by Section 1, Chapter 98, O.S.L. 2002 and 17-206, as amended by Section 1, Chapter 440, O.S.L. 2002 (11 O.S. Supp. 2005, Sections 17-204 and 17-206), which relate to the Municipal Budget Act; providing certain exception to definitions; clarifying applicability of certain requirements for budgets prepared by certain method; providing definitions; providing procedures for municipal budgets prepared by purpose format; amending 60 O.S. 2001, Section 180.1, as amended by Section 6, Chapter 459, O.S.L. 2005 (60 O.S. Supp. 2005, Section 180.1), which relates to trusts for furtherance of public functions; clarifying requirements for certain waiver; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-203.1 of Title 11, unless there is created a duplication in numbering, reads as follows:

A municipality that opts to prepare its budget pursuant to the Municipal Budget Act may select a budget format based on funds and departments or, in the alternative, it may select a format based on purpose. A purpose-based budget shall be subject to all other requirements of the Municipal Budget Act, except those requirements specifically related to budgeting by fund or as provided in Sections 4 and 5 of this act.

SECTION 2. AMENDATORY 11 O.S. 2001, Section 17-204, as amended by Section 1, Chapter 98, O.S.L. 2002 (11 O.S. Supp. 2005, Section 17-204), is amended to read as follows:

Section 17-204. As used in this act, except as provided in Section 4 of this act:

1. "Account" means an entity for recording specific revenues or expenditures, or for grouping related or similar classes of revenues and expenditures and recording them within a fund or department;
2. "Appropriated fund balance" means any fund balance appropriated for a fund for the budget year;
3. "Appropriation" means an authorization to expend or encumber revenues and fund balance of a fund;
4. "Budget" means a plan of financial operations for a fiscal year, including an estimate of proposed expenditures for given purposes and the proposed means for financing them;
5. "Budget summary" means a tabular listing of revenues by source and expenditures by fund and by department within each fund for the budget year;
6. "Budget year" means the fiscal year for which a budget is prepared or being prepared;

7. "Chief executive officer" means the mayor of an aldermanic city or a strong-mayor-council city, the mayor of a town, or the city manager or chief administrative officer as it may be defined by applicable law, charter or ordinance;

8. "Current year" means the year in which the budget is prepared and adopted, or the fiscal year immediately preceding the budget year;

9. "Deficit" means the excess of a fund's current liabilities and encumbrances over its current financial assets as reflected by its books of account;

10. "Department" means a functional unit within a fund which carries on a specific activity, such as a fire department or a police department within a general fund;

11. "Estimated revenue" means the amount of revenues estimated to be received during the budget year in each fund for which a budget is prepared;

12. "Fiscal year" means the annual period for reporting fiscal operations which begins and ends on dates as the Legislature provides or as provided by law;

13. "Fund" means an independent fiscal and accounting entity with a self-balancing set of accounts to record cash and other financial resources, together with all liabilities, which are segregated for the purpose of carrying on specific activities or attaining certain objectives;

14. "Fund balance" means the excess of a fund's current financial assets over its current liabilities and encumbrances, as reflected by its books of account;

15. "Governing body" means the city council of a city, the board of trustees of a town, or the legislative body of a municipality as it may be defined by applicable law or charter provision;

16. "Immediate prior fiscal year" means the year preceding the current year;

17. "Levy" means to impose ad valorem taxes or the total amount of ad valorem taxes for a purpose or entity;

18. "Operating reserve" means that portion of the fund balance which has not been appropriated in a budget year; and

19. "Municipality" means any incorporated city or town.

SECTION 3. AMENDATORY 11 O.S. 2001, Section 17-206, as amended by Section 1, Chapter 440, O.S.L. 2002 (11 O.S. Supp. 2005, Section 17-206), is amended to read as follows:

Section 17-206. A. The municipal budget shall present a complete financial plan for the municipality and shall present information necessary and proper to disclose the financial position and condition of the municipality and the revenues and expenditures thereof, both past and anticipated.

B. Unless the budget is prepared in accordance with Sections 4 and 5 of this act, the budget shall be prepared by fund and department and shall contain the following contents:

1. The budget shall contain a budget summary~~;~~;

2. It shall also be accompanied by a budget message which shall explain the budget and describe its important features~~;~~;

3. The budget format shall be as provided by the governing body in consultation with the chief executive officer~~;~~; and

4. It shall contain at least the following in tabular form for each fund, itemized by department and account within each fund:

~~1. Actual~~

a. actual revenues and expenditures for the immediate prior fiscal year~~;~~;

~~2. Revenues~~

b. revenues and expenditures for the current fiscal year as shown by the budget for the current year as adopted or amended~~;~~; and

~~3. Estimates~~

c. estimates of revenues and expenditures for the budget year.

C. The estimate of revenues for any budget year shall include probable income by source which the municipality is legally empowered to collect or receive at the time the budget is adopted. The estimate shall be based on a review and analysis of past and anticipated revenues of the municipality. Any portion of the budget of revenues to be derived from ad valorem property taxation shall not exceed the amount of tax which is available for appropriation, as finally determined by the county excise board, or which can or must be raised as required by law. The budget of expenditures for each fund shall not exceed the estimated revenues for each fund. No more than ten percent (10%) of the total budget for any fund may be budgeted for miscellaneous purposes. Included in the budget of revenues or expenditures for any fund may be amounts transferred from or to another fund. Any such interfund transfer must be shown as a disbursement from the one fund and as a receipt to the other fund.

D. Encumbrances for funds whose sole purpose is to account for grants and capital projects and/or any unexpended appropriation balances may be considered nonfiscal and excluded from the budget by the governing body, but shall be reappropriated to the same funds, accounts and for the same purposes for the successive fiscal year, unless the grant, project or purpose is designated or declared closed or completed by the governing body.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-217 of Title 11, unless there is created a duplication in numbering, reads as follows:

As used for a budget based on purpose:

1. "Appropriation" means an authorization to expend or encumber income and revenue provided for a purpose;

2. "Budget summary" means a tabular listing of revenues by

source and expenditures by purpose for the budget year;

3. "Estimated revenue" means the amount of revenues estimated to be received during the budget year;

4. "Income and revenue provided" means the amount of estimated or actual income and revenue appropriated by the governing body of the municipality; and

5. "Purpose" means the specific program, project or activity for which the governing body provides an appropriation as listed in the budget.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-218 of Title 11, unless there is created a duplication in numbering, reads as follows:

A municipality that selects a purpose-based budget format shall be subject to the following procedures in addition to other applicable provisions of the Municipal Budget Act:

1. Each municipality shall adopt an appropriation for each purpose as established by the governing body;

2. In all cases the appropriations shall not exceed the income and revenue provided by the governing body from estimated revenues and appropriated fund balance;

3. The adopted budget shall be in effect on and after the first day of the fiscal year to which it applies. The budget as adopted and filed with the State Auditor and Inspector shall constitute an appropriation for each purpose as defined by the governing body, and the appropriation thus made shall not be used for any other purpose except as provided by law;

4. The chief executive officer, or designee, as authorized by the governing body, may transfer any unexpended and unencumbered appropriation or any portion thereof from one purpose to another; except that no appropriation for debt service or other appropriation required by law or ordinance may be reduced below the minimums required;

5. No encumbrance or expenditure may be authorized or made by any officer or employee which exceeds the available appropriation for each purpose as defined by the governing body;

6. The governing body may amend the budget to make supplemental appropriations to any purpose up to the amount of additional unappropriated income and revenues which become available during the fiscal year;

7. If at any time during the budget year it appears probable that revenues available will be insufficient to meet the amount appropriated, or that due to unforeseen emergencies there is temporarily insufficient money to meet the requirements of appropriation, the governing body shall take action as it deems necessary. For that reason, it may amend the budget to reduce one or more appropriations or it may amend the budget to transfer money from one purpose to another purpose, but no appropriation for debt service may be reduced and no appropriation may be reduced by more than the amount of the unencumbered and unexpended balance thereof. No transfer shall be made from the debt service fund to any other fund except as may be permitted by the terms of the bond issue or applicable law; and

8. A budget amendment as provided in this section authorizing supplemental appropriations or a decrease in the total appropriation of funds shall be adopted at a meeting of the governing body and filed with the municipal clerk and the State Auditor and Inspector.

SECTION 6. AMENDATORY 60 O.S. 2001, Section 180.1, as amended by Section 6, Chapter 459, O.S.L. 2005 (60 O.S. Supp. 2005, Section 180.1), is amended to read as follows:

Section 180.1 A. The trustees of every trust created for the benefit and furtherance of any public function with the State of Oklahoma or any county or municipality with a population of two thousand five hundred (2,500) or more as of the most recent Federal Decennial Census as the beneficiary or beneficiaries thereof must

cause an audit to be made of financial statements of the trust, such audit to be ordered within thirty (30) days of the close of each fiscal year of the trust. The audit shall be filed in accordance with the requirements set forth for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes.

B. The trustees of a trust whose beneficiary or beneficiaries are municipalities with a population as of the most recent Federal Decennial Census of less than two thousand five hundred (2,500) and more than Fifty Thousand Dollars (\$50,000.00) in revenues, and for whom an annual financial statement audit is not required by another law, regulation, or contract, shall cause to be conducted, by an independent licensed public accountant or a certified public accountant, an annual audit of the trust's financial statements in accordance with auditing standards generally accepted in the United States and Government Auditing Standards as issued by the Comptroller General of the United States or an agreed-upon-procedures engagement over certain financial information and compliance requirements to be performed in accordance with the applicable attestation standards of The American Institute of Certified Public Accountants, and the fieldwork and reporting standards in Government Auditing Standards. The specific procedures to be performed are:

1. Prepare a schedule of revenues, expenditures/expenses and changes in fund balances/net assets for each fund and determine compliance with any applicable trust or other prohibitions for creating fund balance deficits;

2. Agree material bank account balances to bank statements, and trace significant reconciling items to subsequent clearance;

3. Compare uninsured deposits to fair value of pledged collateral;

4. Compare use of material-restricted revenues and resources to their restrictions;

5. Determine compliance with requirements for separate funds;
and

6. Determine compliance with reserve account and debt service coverage requirements of bond indentures.

Such engagement shall be ordered within thirty (30) days of the close of each fiscal year of the trust. Copies of the annual audit or agreed-upon-procedures report shall be filed with the State Auditor and Inspector within six (6) months after the close of the fiscal year and with the trustees and governing body of the beneficiaries.

C. Public trusts whose beneficiary or beneficiaries are municipalities with a population as of the most recent Federal Decennial Census of less than two thousand five hundred (2,500) which have less than Fifty Thousand Dollars (\$50,000.00) in revenue or assets, and for whom an annual financial statement audit is not required by another law, regulation, or contract and any public trust which did not have financial activity exceeding Fifty Thousand Dollars (\$50,000.00) since its last audit may apply to the State Auditor and Inspector for a waiver of the requirements of subsections A and B of this section.

SECTION 7. This act shall become effective July 1, 2006.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the Senate the 24th day of May, 2006.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2006.

Presiding Officer of the House
of Representatives