

**Center for Local
Government Excellence**



Preparation And Budget Act Compliance

**Daryl G. Purpera, CPA, CFE
Louisiana Legislative Auditor**

**Presented by
Jenifer Schaye, CFE
General Counsel**

**Date**

August 11, 2016

Time

10:00 am – 11:45 am

Instructor

Jenifer Schaye, CFE
General Counsel

Location

Monroe, LA

Method of Delivery

Classroom instruction

Learning Level

Basic

Prerequisite

None

Course 105

Budgeting: Preparation & Budget Act Compliance

Description

This course will give participants an overview of the budgeting process and review all requirements of the Local Government Budget Act.

Objectives

After this class participants will be able to:

- Explain what the budget is and the budgeting process
- Local Government Budget Act—Compliance Requirements

Who Will Benefit

- Elected Officials
- Appointed Officials
- Local Government Employees
- Local Government Auditors

About the Instructor

JENIFER SCHAYE, GENERAL COUNSEL

Jenifer Schaye is General Counsel for the Legislative Auditor of the State of Louisiana. She is a graduate of the University of Dallas and of St. Louis University Law School. She has practiced law continuously for the last thirty-eight years in Texas and Louisiana. Jenifer has substantial experience in the governmental arena. She has worked as a Legislative Aid to a State Representative in Texas. She was a Louisiana Assistant Attorney General for eleven years. As an Assistant Attorney General, she focused on tort, insurance law, and gaming law and all aspects of the Administrative Procedure Act. In her capacity as general counsel to the Legislative Auditor, Jenifer advises on public law issues and laws relating to fiscal matters, ethics issues, and all public laws which impact political subdivisions and the audits of political subdivisions on the local and state level. Jenifer also serves as a board member on the Louisiana Survivor's Benefit Board as the Legislative Auditor's designee. In addition, Jenifer represents the Legislative Auditor and staff in those matters where they are called to testify and/or to produce records for further inquiry by state and federal courts. She advises the Louisiana Legislative Audit Advisory Council on relevant audit law issues.

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A Public Budget - what is it?

- A legal document
- A public document
- A plan for accounting for revenues and expenditures of the political subdivision
- A complete financial plan

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How can we use the budget?

A budget is:

- A control mechanism
- A management tool
- A component of planning

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What types of budgets do we usually see in the public sector?

- Operating budget
- Special Revenue Fund budget
- Capital budget

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Operating budget

- Basis for revenue and adjustments to fiscal policy
- Facilitates the scheduling of work
- Establishes the parameters for fiscal audits
- Appropriation instrument

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The budget process:

- Executive preparation
- Public Input
- Legislative review, modification, and enactment
- Budget execution
- Post audit and evaluation

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Legislative Updates

❖ Act 520 (SB207)

- Major change to LGBA
- Home Rule Charter
 - LGBA required as “minimum standards”
 - Now, subject to LGBA only to extent no conflict with HRC
- Amendments
 - Comprehensive budget for general fund and special funds is still required
 - Amendment to budget may be made at any point prior to adoption

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Legislative Update

❖ Act 520 (continued)

- “Proposed budget” – the budget prepared and submitted to the governing authority of the political subdivision by the chief executive or administrative officer.
- “Adopted budget” – the budget adopted by the governing authority of the political subdivision inclusive of any and all amendments adopted by the governing authority to the proposed budget.
- The proposed budget and the attendant budget adoption instrument may be amended to the extent deemed appropriate by the governing authority at any point prior to final adoption, unless otherwise provided in an ordinance or home rule charter.

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Legislative Update

❖ **Act 520 (continued)**

- Adoption of budget including all Amendments to proposed budget at open meetings
 - Prior to end of fiscal year;
 - Prior to date of budget adoption in R.S. 17:88(A) (school boards);
 - Prior to 30th day of fiscal year to which budget is applicable (parish).
- Disclosed information
 - La. R.S. 39:1305(C) requirements remain the same
 - Any amendments adopted prior to final adoption are required to be disclosed in the adopted budget

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Legislative Update

❖ **Act 520 (continued)**

- Remember – these changes in the LGBA apply only to amendments to the proposed budget prior to final adoption.
- Procedure for Amendments to the adopted Budget remains the same per R.S. 39:1310.

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Who must have a budget?

- Parish Governing Authorities and all districts, boards and commissions they create
- Municipalities and all boards and commissions they create
- School Boards
- Special Districts formed as a result of consolidation
- City Court
- District Public Defender Office
- Housing Authorities
- Mortgage Authorities

R.S. 39:1302

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Who must have a budget? (cont'd)

- Political Subdivisions of the State, not in the CAFR
- Registrar of voters
- Independently elected parish offices, including:
 - ✓ Office of Assessor;
 - ✓ Clerk of District Court;
 - ✓ Coroner;
 - ✓ District Attorney;
 - ✓ Sheriff; and
 - ✓ Judges (only insofar as their judicial expense funds)

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Structure of the Budget

- Uniform Chart of Accounts
- Structured Budget Document
- Adoption Instruments
 - ✓ Appropriation Ordinance
 - ✓ Appropriation Resolution
- Definite Authority for Chief Executive Officer/Superintendent and Governing Authority

Changed by: Act 520

R.S. 39:1304–1305

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Content of Funds

- General Fund and Special Revenue Fund Budget Documents shall include:
 - ✓ Estimated fund balances at beginning of FY
 - ✓ Estimate of all receipts and revenues
 - ✓ Revenue itemized by source
 - ✓ Expenditures itemized by agency, department, function, and character
 - ✓ Other funding sources and uses
 - ✓ Estimated fund balances at the end of the FY

R.S. 39:1305

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Content of Statements

- ✓ The statements required for the general fund and each special revenue fund must now include a clearly presented side-by-side detailed comparison for the current year of all the information required, including a percentage change for each item of information.

R.S. 39:1305(C)(2)(a)

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Completion and Submission of Proposed Budget for Public Inspection

- ✓ The proposed budget for municipalities and parishes shall be completed and submitted to the governing authority and made available for public inspection no later than fifteen days prior to the beginning of each fiscal year.

R.S. 39:1306

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Public Participation

- \$500,000+ Budgets (applies to 500K also)
 - ✓ Give Notice that the budget is available for inspection
 - ✓ Give Notice of Public Hearing – 10 days prior to the hearing
 - ✓ Give Notice in the official journal
 - ✓ Must have 1 Public Hearing
 - ✓ After Public Hearing certify completion by publication

R.S. 39:1307

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Budget Adoption

- ✓ All action necessary to adopt and otherwise finalize and implement the budget for a fiscal year shall be taken in open meeting and completed before the end of the prior fiscal year
- ✓ The adopted budget shall be balanced with approved expenditures not exceeding the total of estimated funds available
- ✓ Upon adoption, certified copies of the budget and adoption instrument shall be transmitted to and retained by the chief executive or administrative officer as required by R.S. 39:1313.

R.S. 39:1309

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****IMPORTANT****

The adopted budget shall contain the same information as the proposed budget (See R.S. 39:1305(C)), a summary of which was published and made available for public review.

R.S. 39:1309

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No Budget Adoption

✓ If NO adoption of budget – can only have access to 50% of amounts appropriated for the previous year.

R.S. 39:1312

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Public Record

- Upon adoption of the Budget, chief executive or administrative officer shall:
 - ✓ Maintain certified copies of the Budget
 - ✓ Maintain a copy of the adoption resolution
 - ✓ Maintain copies of supporting schedules and correspondence
 - ✓ Allow for public inspection at the domicile of the governing authority

R.S. 39:1313

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Amending The Budget

- Governing authority - 5% rule or change in operations must adopt a budget amendment in open meeting
- The 5% rule and a change in operation require an amendment
- Expenditures may not exceed the total estimated funds available for the fiscal year.

R.S. 39:1310

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Budget Authority and Control

- **5% Rule**

Chief executive or administrative officer for an entity with expenditures \$500,000 or > must alert entity or official **in writing** when:

- (1) Revenues fail to meet budgeted revenues by 5%
- (2) Expenditures exceed budgeted expenditures by 5%
- (3) Beginning fund balance fails to meet estimated beginning fund balance by 5%

R.S. 39:1311

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Budget Emergencies

- An emergency means an unforeseen event bringing with it destruction or injury of life or property or the imminent threat of such destruction or injury
- Nothing prohibits the expenditure of funds in such an emergency

R.S. 39:1314

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Important Issues

- Budget Adoption Instrument
- Public Participation
- Budget Amendments
- Budget Authority and Control
- No Budget
- Emergencies
- Penalties

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Important Issues (Cont'd)

- The political body and the chief executive must function as fiduciaries
- The political body and the chief executive must act in the **daylight**
- The political body and chief executive must be aware of substance and procedure
- The budget adopted is more than a guide
- **Amendments** must be adopted properly

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**CONTACT INFORMATION
LEGAL SECTION**



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