



A locality's guide to Adopting a budget and setting taxes

Summer 2010

Introduction

Passing a budget is one of the most important items on a local government's annual agenda. The budget establishes the government's priorities and sets planned funding levels for each governmental program.

The process of planning, discussing, and finalizing a budget is set forth in the Virginia code. This guide is intended to simplify and explain the code's requirements for local governments. Some of the information is basic guidance on budgets, but the document also provides specific procedures and deadlines.

The summaries and explanations below should provide adequate background information, but are not a substitute for the code itself. Each code section is referenced in the endnotes and should be referred to for more complete information.

Budget basics

A budget is a spending plan, setting an estimate for a locality's revenues and spending throughout a fiscal year.¹ The budget is for informative and planning purposes only.²

A locality's budget must contain a complete, itemized and classified plan of all:

- Contemplated expenditures for the fiscal year
- Estimated revenues for the fiscal year and
- Borrowings for the fiscal year.³

Opposite each item of the contemplated expenditures, the budget must include:

- The aggregate amount appropriated in the previous fiscal year
- The amount actually spent during that year
- The aggregate amount appropriated and expected to be spent in the current year
- The increases or decreases in the contemplated expenditures for the ensuing year compared to the current year.⁴

A budget must also include a statement of contemplated:

- Revenues
- Disbursements
- Liabilities
- Reserves
- Surpluses or deficits⁵

These items must be current as of the date of the preparation. The locality must also include an itemized financial balance sheet for the close of the previous year.⁶

A budget may also include reasonable reserves for contingencies and capital improvements.⁷ If the budget includes a capital budget, it should establish a capital budget calendar and follow the recommendations of the capital improvements program (CIP) and the long-range plan.⁸

Every locality must establish a budgeting and accounting system.⁹ For counties, cities and towns with populations greater than 3,500 this system must be the state uniform fiscal reporting system.¹⁰

Once complete, the budget must be posted on the locality's website, if there is one that is owned and operated by the locality.¹¹

When must the budget be completed?

The timing of the budget is based around a fiscal year of July 1-June 30.¹² This fiscal year is mandated by the Virginia Code and stands regardless of any charter provisions to the contrary.

Every locality must adopt a budget and set its tax rates by June 30 of a given year unless the locality is also responsible for a school division.¹³ For these localities with schools, the school portion of the budget must be adopted no later than May 15, or 30 days after the receipt of estimated state funding.¹⁴ All department, division, and agency heads are required to submit their budget requests to the local government by April 1 of each year.¹⁵

Special note for localities with school divisions: If the

state budget is not complete within the normal timeframe (April 15), the locality must complete the school portion of the budget within 30 days of receipt of estimated state funding¹⁶ (see above). If, however, this date falls after June 30, here are several suggestions of how to deal with the lapse in time between the overall budget deadline and the school portion of the budget:

Pass a budget that assumes what you will receive from the state, even though the final numbers are not in.

Pass a “continuing resolution,” which will serve as a limited appropriation (30-60 days) allowing each department to continue spending from fund balances at the prior year’s levels.

Wait until the receipt of estimated state funding, even if it comes after July 1, and adopt a budget and appropriations that are retroactive to July 1. (This is, by far, the least favored alternative.)

Furthermore, a locality with a school division must notify teachers of contract renewals and school assignments “as soon after April 15 as the school budget shall have been approved.”¹⁷

Sources of revenue

A. Taxes. Each town or city council must impose taxes “in such amount as in their opinion is necessary to be raised.”¹⁸ Generally, the imposition of taxes must be approved by a majority vote of the council.¹⁹ However, in towns, a 2/3 vote is required to impose taxes.²⁰

The Virginia Code establishes permissible taxes for localities to impose.²¹ Localities cannot levy a local income tax on residents.²²

Reassessments: Localities reassess the real property in their jurisdiction at a set interval of years. If a reassessment, with no change in real estate tax rates, results in an increase of 1% or more in the total real estate tax levied,⁵¹ then the locality must either:

Reduce the tax rate so its levy does not exceed 101% of the previous year’s tax levy⁵² or

Advertise the effective increase in a newspaper having general circulation in the locality at least 7 days prior to a public hearing on the effective increased rate.⁵³ The Virginia Code mandates the formatting of this advertisement in §58.1-3321.⁵⁴

Permissible taxes		Applicable caps
Real estate ²³		None ²⁴
Personal property ²⁵		None ²⁶
Machinery and tools ²⁷		Cannot exceed personal property rate ²⁸
Merchant’s capital (inventory) ²⁹		Cannot exceed rate in effect as of 1/1/78 ³⁰
Business licenses ³¹		See below
	Contractors and construction	16 cents/\$100 of gross receipts ³²
	Retail sales	20 cents/\$100 of gross receipts ³³
	Financial and professional services	58 cents/\$100 of gross receipts ³⁴
	Repair services	36 cents/\$100 of gross receipts ³⁵
	All other businesses	36 cents/\$100 of gross receipts ³⁶
Transient occupancy ³⁷		2% or 5% of charge of occupancy for counties, depending on the county ³⁸
Food and beverage ³⁹		Generally cannot exceed 4% of bill for counties ⁴⁰
Cigarettes and tobacco ⁴¹		No cap, but locality must have had such taxing authority as of 1/1/77 ⁴²
Recordation at courthouse ⁴³		1/3 state recordation ⁴⁴ tax
Wills and administration ⁴⁵		1/3 state tax rate ⁴⁶
Consumer utility ⁴⁷		20% of monthly rate up to \$15, no tax on charges in excess of \$15 ⁴⁸
Admissions (tickets to events) ⁴⁹		10% of admission price for certain counties ⁵⁰

B. Utility fees. Localities may acquire or establish, maintain, operate, extend, and enlarge the following types of utility services: waterworks, sewage, gas works (natural or manufactured), electric plants, public mass transportation systems and other public utilities within or outside its boundaries.⁵⁵ All localities have authority to adopt usage fees for those utilities.⁵⁶

Water and sewer rates are required to be practicable and equitable.⁵⁷ Similarly, the connection fees must be fair and reasonable.⁵⁸

NOTE: If the utility usage fees take the form of taxes,⁵⁹ they are governed by the caps outlined in the chart above in Section 3A.

What can funds be spent on?

The Virginia Code limits how a locality can spend its funds. In addition to the departmental budgets,⁶⁰ outside agencies can also be funded.

Localities may:

- Make loans to nonprofit firefighting and rescue service organizations⁶¹
- Establish tuition reimbursement programs for volunteer firefighters and medical personnel⁶²
- Make grants or loans to residential rental property owners for rehabilitation of rental properties for low income persons⁶³
- Provide home ownership grants to public employees not exceeding \$5,000.00 per employee per year⁶⁴
- Provide loans for the initial acquisition and installation of clean energy improvements for both existing properties and new construction.⁶⁵
- Make appropriations to other non-profit services and organizations.⁶⁶

Localities may not appropriate funds to outside organizations that are “controlled in whole or in part by any church or sectarian society.”⁶⁷ (This does not apply to the YMCA, YWCA, Habitat for Humanity or the Salvation Army.⁶⁸)

What are the notice requirements for a budget?

A budget is enacted as an ordinance and generally follows the same rules governing adoption of ordinances, but with a few exceptions.

Advertisement: A brief synopsis of the budget, “for informative and financial planning purposes only” must be published once in a newspaper having general circulation in the locality.⁶⁹

There must also be a notice given of one or more public hearings at least seven days prior to the date of the hearing in a newspaper having general circulation in the locality.⁷⁰ Furthermore, a descriptive notice of the intention to adopt the budget ordinance must be published at least once a week for two successive weeks prior to the public hearing and with at least seven days elapsing between the advertisements.⁷¹

Before any tax increase is adopted, the proposed increase must be advertised at least once in a general circulation newspaper at least seven days before the date of the public hearing.⁷²

The publication must contain a statement either that the publication contains the complete ordinance or that a copy of the complete ordinance is on file and may be inspected and obtained from the office of the manager or the clerk of the Circuit Court.⁷³

Public hearing: The public hearing must be open for any citizen of the locality to attend and/or speak.⁷⁴ The hearing must take place at least seven days before the governing body votes to adopt the budget.⁷⁵

How is the budget adopted?

Often, local charters require that the budget must be adopted through an affirmative vote of the majority of all elected members of the council.⁷⁶ A majority vote of pres-ent members may not be sufficient.⁷⁷

The imposition of taxes requires a 2/3 supermajority affirmative vote in towns (see Section 3A above).⁷⁸

The Virginia Constitution requires a majority vote of all of the elected members to the public body for the following actions:

- Appropriations of more than \$500
- Any imposition of taxes or the
- Authorization to borrow money.⁷⁹

Once the budget is adopted, how are funds appropriated?

The adoption of a budget alone does not authorize the locality to spend any money.⁸⁰ The Virginia Code states that “[n]o money shall be paid out or become available... unless and until there first has been made an annual, semi-annual, quarterly, or monthly appropriation.”⁸¹ Similarly, the imposition and collection of taxes is not, in and of itself, an appropriation.⁸²

Funds are appropriated by a separate act of the council. According to the Virginia Code, “A locality may make appropriations for the purposes for which it is empowered to levy taxes and make assessments, for the support of the locality, for the performance of its functions, and the accomplishment of all other lawful purposes and objectives.”⁸³

Any funds that are not spent in a given fiscal year are carried over to the next fiscal year when they will be available for appropriation.⁸⁴

Appropriations often require an affirmative vote of all elected members to the public body (see Section 6, above).⁸⁵

Once a budget is adopted, how is it amended?

Any locality may amend its budget to adjust the aggregate amount appropriated during the fiscal year.⁸⁶ This often becomes necessary when rollover funds from the

previous year, bond issues, grants, or other new funding become available. Similarly, this can be necessary when new spending measures are implemented.

Any amendment that exceeds the lesser of 1% of the adopted budget or \$500,000 must follow the same notice, public hearing, and approval procedures as the original budget itself, except that it may be adopted at the same meeting as the public hearing.⁸⁷

A real estate or property tax rate may not be changed after the date on which the personal property and land books are delivered to the treasurer of the locality.⁸⁸

Endnotes

- 1 See generally Va. Code §§ 15.2-2503 – 15.2-1204.
- 2 Va. Code § 15.2-2503.
- 3 *Id.*
- 4 Va. Code § 15.2-2504.
- 5 *Id.*
- 6 *Id.*
- 7 Va. Code § 15.2-2505.
- 8 *Id.*; see also Va. Code § 15.2-2223(5) (describing the role and the scope of the Comprehensive plan and the accompanying planning process.)
- 9 Va. Code § 15.2-2501.
- 10 *Id.*; see also Va. Code § 30-137 (allowing small towns to choose to adopt the state uniform system of bookkeeping and accounting or request the State Auditor of Public Accounts to create a tailored system of bookkeeping and accounting for that locality.)
- 11 Va. Code § 15.2-2503.
- 12 Va. Code § 15.2-2500.
- 13 Va. Code § 15.2-2503.
- 14 Va. Code § 22.1-93.
- 15 Va. Code § 15.2-2503.
- 16 Va. Code § 22.1-93; see also Va. Code § 15.2-2502 (setting forth requirements for the Virginia Department of Taxation and Compensation Board.)
- 17 Va. Code § 22.1-304.
- 18 Va. Code § 58.1-3005.
- 19 Va. Const., Art. VII, Section 7 (requiring an affirmative vote from all elected members, not just the members present at the meeting).
- 20 Va. Code § 15.2-1427(g).
- 21 See generally Va. Code § 15.2-1104.
- 22 *Id.* Even though the statute refers to taxation of “persons,” this still does not qualify income taxation as a permissible taxable resource for localities in Virginia. See Va. Code § 58.1-300; see also Va. Code § 58.1-540 (providing exceptions to the ban on income tax for localities).
- 23 Va. Code § 58.1-3200, et seq.
- 24 Certain exemptions and restrictions do apply. See Va. Code §§ 58.1-3210 – 58.1-3214.
- 25 Va. Code § 58.1-3500, et seq.
- 26 Exemptions do apply here in limited circumstances. See Va. Code § 58.1-3506.2.
- 27 Va. Code § 58.1-3507.
- 28 *Id.*
- 29 Va. Code § 58.1-3509.
- 30 *Id.*
- 31 Va. Code § 58.12-3700, et seq.
- 32 Va. Code § 58.12-3706(A)(1).
- 33 Va. Code § 58.12-3706(A)(2).
- 34 Va. Code § 58.12-3706(A)(3).
- 35 Va. Code § 58.12-3706(A)(4).
- 36 *Id.*
- 37 Va. Code § 58.12-3819.
- 38 *Id.* Certain counties are allowed to exceed two percent if the excess is used for travel and tourism promotion. *Id.* There is no cap for cities and towns with general taxing power. Va. Code § 58.1-3840.
- 39 Va. Code § 58.12-3833.

- 40 Id. There is no cap for cities and towns with general taxing power. Va. Code § 58.1-3840.
- 41 Va. Code § 58.12-3830.
- 42 Id.; see also Va. Code § 58.1-3840 (granting cities and towns the power to tax cigarettes and tobacco).
- 43 Va. Code § 58.12-3800.
- 44 Id.
- 45 Va. Code § 58.12-3805.
- 46 Id.
- 47 Va. Code § 58.12-3814.
- 48 Id.
- 49 Va. Code § 58.12-3817-18.
- 50 Va. Code § 58.12-3818. There is no cap for cities or towns with general taxing power. Va. Code § 58.1-3840.
- 51 Va. Code § 58.1-3321.
- 52 Id.
- 53 Id.
- 54 Id.
- 55 Va. Code § 15.2-2109.
- 56 Id.
- 57 Va. Code § 15.2-2119. A previous VML Budget guide, written by Blair Mitchell in 2006, mentioned lawsuits against Leesburg and Front Royal for excessive fees for out-of-town connections. The Leesburg case was decided by the Supreme Court of Virginia on a procedural issue, giving no further guidance to the language in the statute here. See *Town of Leesburg v. Giordano*, 276 Va. 318 (2006).
- 58 Va. Code § 15.2-2122.
- 59 Va. Code § 58.1-3321.
- 60 Va. Code § 15.2-2503.
- 61 Va. Code § 15.2-954.
- 62 Va. Code § 15.2-954.1.
- 63 Va. Code § 15.2-958.
- 64 Va. Code § 15.2-958.2.
- 65 Va. Code § 15.2-958.3.
- 66 Va. Code § 15.2-953.
- 67 Id.
- 68 Id.
- 69 Va. Code § 15.2-2506.
- 70 Id.
- 71 Va. Code § 15.2-1427(F).
- 72 Va. Code § 58.1-3007.
- 73 Va. Code § 15.2-1427(F).
- 74 Va. Code § 15.2-2506.
- 75 Id.
- 76 Va. Const., Art. VII, Section 7 places the same requirement on local governments when deciding whether to impose a tax.
- 77 Va. Code § 15.2-1415 allows a quorum to vote on most issues that come before the governing body. In issues regarding the budget and taxation, a majority of the quorum is only sufficient if the same number of votes also constitutes a majority of the entire elected body, regardless of whether they are present at the meeting.
- 78 Va. Code § 15.2-1427(G).
- 79 Va. Const., Art. VII, Section 7.
- 80 Va. Code § 15.2-2506.
- 81 Id.
- 82 Va. Code § 58.1-3005.
- 83 Va. Code § 15.2-950.
- 84 Va. Code § 58.1-3005.
- 85 Va. Const., Art. VII, Section 7.
- 86 Va. Code § 15.2-2507.
- 87 Va. Code § 15.2-2507(A).
- 88 Va. Code § 58.1-3012.

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