

Municipal Finance Basics



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Overview

- General Legal Framework
- Getting Money
- Spending Money
- Good Resources to learn more.



Getting money

- Can only charge the **taxes** set by the State.
- **Fees** in excess of the cost to regulate the activity or provide the service can be found by courts to be illegal taxes.
- **Fines** – set by state law.
- Cities can accept **donations** - but be careful about asking for them – ethics issues abound.
- **Borrowing** money? Check with bond counsel.
- **Grants** are great – but they have strings.
- **Economic Development** must have program under Texas Loc. Gov't Code Chptr 380.



Spending Money

- Government funds must be spent for the purpose of that government entity (e.g. City = City; County = County).
- Cities can't make loans or grants (except to accomplish a legitimate public purpose).
 - The City must have public control over its funds
 - Must be able to show the taxpayers that their money was spent for the city purpose.
 - City must receive something roughly equivalent to what it is spending.
 - Most funds come with strings.
 - Must follow public procurement laws.



What is a “city purpose”?

- “Municipal”, or city, purpose is not defined in one particular place.
- We look to constitutional provisions, cases, and the opinions from the Texas Attorney General.
- Texas Supreme Court has said “if an object is beneficial to the inhabitants and directly connected with the local government it will be considered a public purpose.”



Getting Money – Property Taxes

- The Texas Constitution, and some state statutes, set the maximum that a city can assess for the city's property tax rate.
- In general, Type B general law cities can assess a max of 25 cents per \$100 valuation.
- For most cities with 5,000 or less population, the max is \$1.50 per \$100 valuation.
- For larger cities, like Austin, the max is generally \$2.50 per \$100 valuation.
- Austin rate = 44.48 cents per \$100



Setting the property tax rate

- It's a multi-month process.
- It's intertwined with approving the city budget.
- You need to follow state law to publish notice, and hold hearings, on the right dates.
- TML publishes a calendar.
- The Texas Comptroller has videos that walk through the calculations.
<https://comptroller.texas.gov/taxes/property-tax/truth-in-taxation/index.php>
- The Tax Collector collects the taxes and remits the city's portion to the city.



Getting Money - Sales Tax

- Cities can assess a 1% sales tax on goods sold in the city.
- To adopt a sales tax, a city must hold an election.
- All local sales taxes combined must total not more than 2%.
- Texas Comptroller has info on web site to figure out sales taxes: <https://comptroller.texas.gov/taxes/sales/>
- The Comptroller collects these taxes and turns over the city portion to the city.
- Can be used for any lawful city purpose.



Special Taxes



- Often have specific legal requirements.
- **Hotel Occupancy Tax (HOT)** – must be used to promote **tourism and the convention industry** and fit within **the list of uses**. (Texas 2 Step).
- **Venue taxes** – cities can ask the voters for permission to use various taxes for projects like **convention centers, stadiums, and parks**. **Can issue bonds** backed by these taxes. Important to **consult with bond counsel**.



Sales Taxes for dedicated purposes

- If the sales taxes in a city are not at 2% cap, then city can use the sales taxes for dedicated purposes.
 - Examples include: economic development, property tax relief, street maintenance, Better Jobs Act funding, and certain venue projects.
 - These uses may involve calling an election and issuing bonds – so consulting with bond counsel is important.

2%

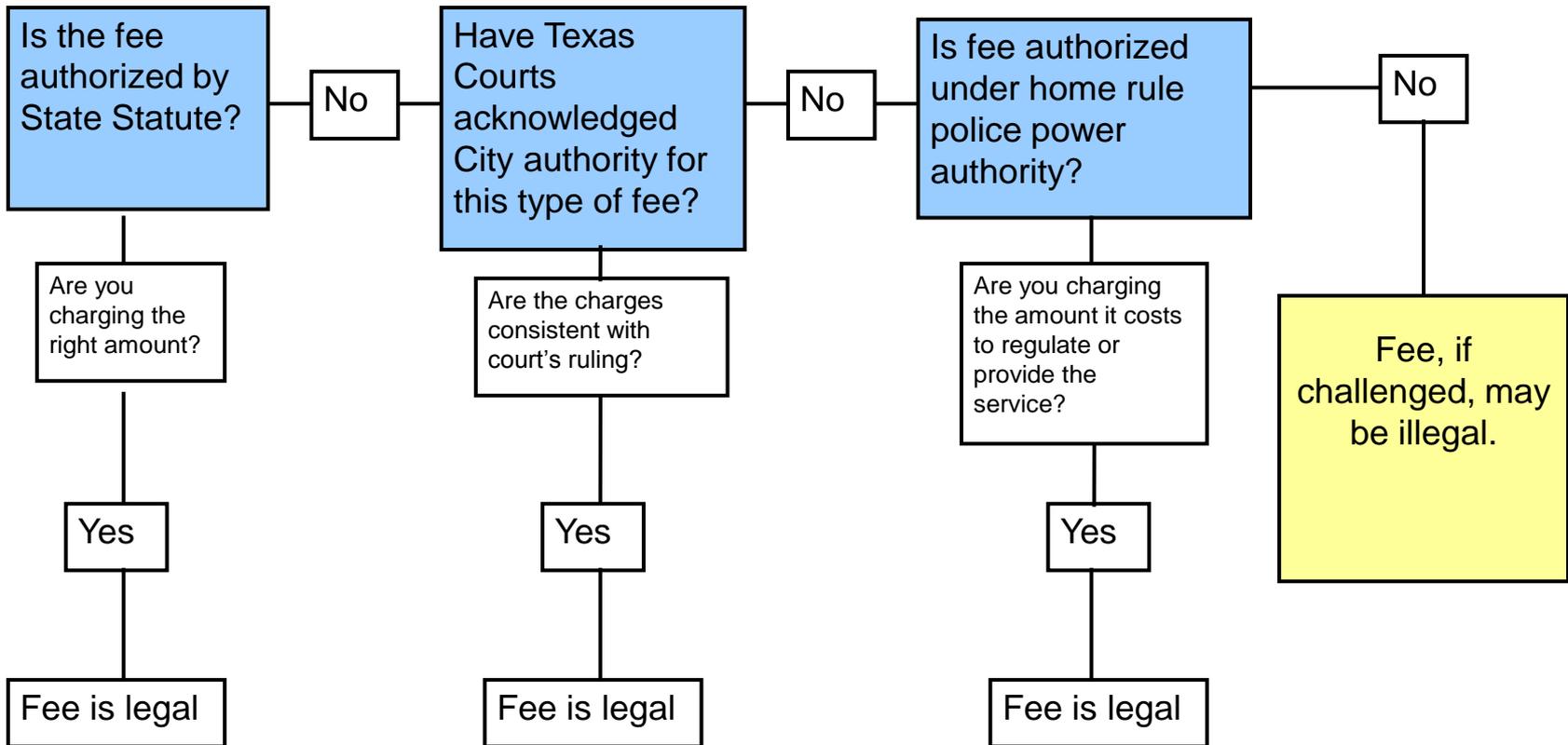


Fees – legal framework

- The City may charge a fee if the legal basis for the fee is sound and council has approved it. The legal basis for a fee is sound if it is supported by at least 1 of the following:
 - State Statute allows it.
 - It is recognized by the Court or an Attorney General Opinion.
 - Home Rule Authority supports it. Austin is a home rule city. Most larger cities are home rule. Most cities in Texas are small and are not home rule – so check with your attorney to see what applies.



If there is legal authority for a fee, your city can assess it.



City Cannot Raise More Money From Fee Than It Needs to Regulate

- Nearly all fees or assessments are intended to raise revenue. The critical issue is whether the assessment is intended to raise revenue **in excess** of that reasonably needed for regulation.
- If people are discussing using a fee to pay for something that is not the focus of the fee, this is usually a flag – talk to your city attorney.



User Fees

- User fees are payments given in return for a government-provided benefit.
- **4 criteria:**
 - Paid in exchange for a particular government service which benefits the party paying the fee in a manner not shared by other members of society.
 - Paid by choice - the party paying the fee has the option of not utilizing the government service and can therefore avoid the charge.
 - Paid to compensate the government entity providing the services for its expenses and not to raise revenue.
 - Based on actual costs to the city for expenses funded by the fee.



Texas Courts can “carve-out” authority for fees.

- If the proposed fee lacks a statutory basis, it may still be assessed if Texas Courts (or the attorney general) have granted specific authority for the fee, sometimes known as a “carve-out.”
- Such carve-outs include:
 - Health inspection fees
 - Parking fees
 - Charges for city-produced compost or mulch



Courts can find fees to be illegal taxes if:

- The fees are:
 - in excess of the amount set by state law; **or**
 - In excess of the amount needed to provide the service; **or**
 - In excess of the cost to regulate an activity.
 - **Best Practice: make sure you know what it costs to regulate the activity or provide the service before instituting the fee. Fee studies are a good idea.**
 - For more info, look at my paper on fees:
 - https://texascityattorneys.org/wp-content/uploads/2017/05/Fireside_Fee-Paper-2017.pdf



Fines

- **Fines are punishment** generally handed out in **municipal court**.
- **Must have due process** – usually this means a court.
- Class C misdemeanors: state law generally caps the fine – traffic tickets = \$200; other City Code violations = \$500 for ordinary offenses and \$2,000 for offenses relating to fire safety, zoning, public health and sanitation.
- Special fine for parking in handicapped spots not less than \$550 or more than \$800 for first violation – goes up for repeat violations.
- Some state laws specify how the city must spend the fines (traffic fines for example).



Donations



- Cities can accept donations.
- Be cautious about who is asked to give, and who is doing the asking.
- Bribery is the express exchange of an official action for anything of monetary value. Bribery is the most serious crime connected with public service.
- Consult your attorney if setting up a donation program.



Selling city property

- Texas law regarding selling government property is both simple and complex.
 - The simple part is that the city is supposed to follow a process and get fair market value.
 - The complicated part is that there are exceptions.
 - Also, some land, like parkland, has even more process.



Borrowing Money

- Cities often borrow money for multi-year projects since the Texas Constitution prohibits incurring a debt for more than 1 year without the city having a fund (called a “sinking fund”) to cover the interest.
- City debt instruments must be approved by the Public Finance Division of the Texas Attorney General’s Office.
- You should have bond counsel.



Borrowing Money – more info

- When cities borrow money, we issue bonds or other types of public securities. There are 3 basic types:
- **General obligation bonds** (approved by voters and paid back with property taxes)
- **Certificates of obligation** and similar shorter term financing (not approved by voters; paid back with property taxes; some limits on use)
- **Revenue bonds** paid back with revenue from city operations like utility rates.



Grants

- Grants are not “free money.”
- Federal grants have reporting requirements and wage requirements.
- Many grants have a requirement that the grant recipient must match the funds, or continue the jobs after the grant runs out.
- All grants have reporting requirements.
- Some grants may be for a purpose that conflicts with the other funds the city used for the project.
 - (economic development may conflict with the requirements for tax exempt bonds, for example).



Summary of Revenue

- State sets legal framework for all taxes.
- Fees charged in excess of cost to regulate or provide the service can be found by courts to be illegal taxes.
- Must hold election for some special taxes and some public finance.
- Grants, donations, selling or renting city property – all have legal requirements.



Legal Framework for Spending

- Must have public purpose.
- Cities and other political subdivisions can't make gifts.
- Must retain control over the funds to make sure the public purpose is achieved.
- Must get something roughly equivalent in value to what is being spent.



Spending Money

- A city must spend its money as it said it would in the budget the city adopts each year.
- Adopting a budget, like adopting the tax rate, requires notice, a public hearing, and more notice.
- To amend the budget, must also follow state law – and if the city adopted its budget by ordinance, can only amend with an ordinance.
- The person responsible for preparing the budget in Austin is the City Manager (per state law and Charter).



- BUDGET DOCUMENTS
- BUDGET DEVELOPMENT
- CIP PLANS
- PERFORMANCE REPORTS
- FINANCE REPORTS

Approved Budget 2014-2015

The City of Austin fiscal year begins on October 1. In the Spring, the City begins the annual budget preparation process which includes opportunities for citizen participation and culminates with the adoption of a final budget in mid-September. Any comments, questions, or suggestions about the City's budget can be sent to COA.budget@austintexas.gov.

Many parts of the budget documents are in Adobe PDF format. To download click Adobe Acrobat Reader.

DESCRIPTION	LINK TYPE
Approved Budget Volume 1 11/13/2014	pdf
Approved Budget Volume 2 11/13/2014	pdf

- Proposed Budget - 2015-2016
- Annual Budgets
- Property Tax Information and Adopted Budget Vote
- Raw Budget Data
- Tax Rates

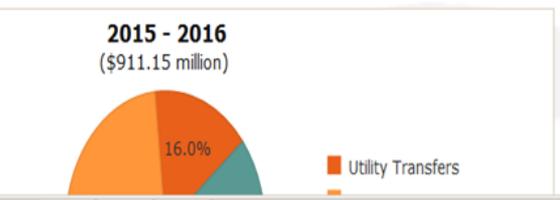
In The News

- Proposed Budget Highlights
- Puntos Sobresalientes del Presupuesto Propuesto
- FY 2015-16 Public Engagement Report
- FY 2015-16 Proposed Budget
- 2015-2016 Capital Improvement Plan Comprehensive Annual Financial Report 2014
- FY 2014 Annual Performance Report
- 2015 Approved Budget
- Raw Budget Data
- Combined Jurisdictional Outlook: FY15-FY19
- Council's Budget Questions

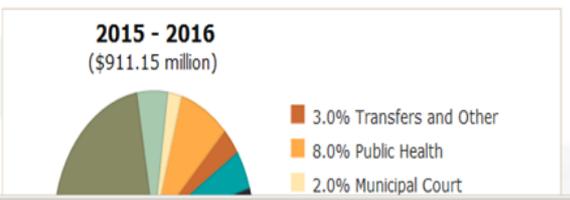


View press release

Where does the City get General Fund Money



How does the City spend General Fund Money



Spending money – purchasing

- The State has specific laws about how to purchase goods and services.
- The main idea is that the purchasing should be competitive and done in public.
- Like many laws, there are exceptions.
- Consult with your attorney to make sure you are using the exceptions correctly.



Spending money - construction

- The Government Code contains the requirements relating to bidding out construction contracts.
- Some parts of the contracts, such as the services of architects and engineers, have their own statutory requirements.
- The source of funds the city uses for the construction may impact the requirements too.
- Best practice is to have your city attorney draft owner-friendly documents – the American Institute of Architects (AIA) documents are geared toward protecting architects.



Summary of Spending Money

- Basic framework:
 - must have a purpose specific to the government that is spending the money;
 - Must have controls in place to make sure taxpayers are getting what is being paid for.
 - Must get something roughly equivalent to what government is spending (can't give gifts).
 - Most spending must follow state law about procurement.



Economic Development

- Economic development can both be getting money and spending money.
- The Texas Constitution authorizes the spending of public funds for economic development as a public purpose.
- Chapter 380 of the Local Gov't Code governs establishment of programs for economic development – it is very broad.



Economic Development best practices

- Have a clearly adopted program.
- Outline the steps that a business must follow to justify public spending.
- Include measurable requirements that must be met before business can receive funds from the city.
- Include a “funding out” provision to recognize the limits on government funds.



Good resources

- TML Revenue Manual
- TML's calendar for budget and tax process.
- TML Purchasing Made Easy Handbook
https://www.tml.org/p/procurement_easy%202017.pdfTML Economic Development Handbook
- https://www.tml.org/p/2017-Economic-Development-Handbook_FINAL.pdf
- Texas Comptroller's Truth In Taxation materials
 - <http://comptroller.texas.gov/taxinfo/proptax/tnt/>
- Kuravilla Oomen, City Attorney for City of Irving
https://texascityattorneys.org/wp-content/uploads/2018/02/KO_Municipal-Finance-Presentation-2-9-18.pdf



Questions?

