

**SUMMARY OF OKLAHOMA STATE LAWS
APPLICABLE TO MUNICIPAL ACCOUNTING AND FINANCE
THROUGH 2008 LEGISLATIVE SESSION**

INTRODUCTION

This guide has been developed by Crawford & Associates, P.C. from codified State statute publications and is intended to serve as a reference tool for quick identification of Oklahoma State laws applicable to municipal finance and accounting issues. This guide is not intended to an all-inclusive summary of all statutory provisions applicable to cities and towns, but it is designed to assist municipal official and auditors in identifying provisions of State law for further research. The topic areas addressed in this guide are as follows:

- Legally Required Funds
- Municipal Budgeting
- Deposits and Investments
- Revenue Restrictions
- Payroll and Compensation
- Debt Restrictions and Limitations
- Purchasing and Spending
- Public Trusts and Authorities
- Miscellaneous Provisions

An important point to be noted is that this guide addresses Oklahoma State statutes only. Each local government may have a charter, code of ordinances, and/or resolutions that may provide more stringent requirements than these State laws. On subjects of local interest only (seek legal counsel advice on the definition of these items), where conflicts of law exist between State statutes and the local law, normally the local law will prevail. However, in subjects that are not of local interest only, generally the more stringent requirements will prevail, whether in State law or local law.

In monitoring compliance with legal requirements applicable to municipalities finance and accounting, one should become familiar with requirements that may go beyond State statutes, such as the following:

- Laws
 - Federal
 - State
 - Local
- Regulations
 - Federal Circulars
 - State Agency Regulations
 - Local Resolutions and Policy
- Grants and Contracts
 - Grant Awards
 - Trust Indentures
 - Bond or Note Indentures
 - Employment Contracts
 - Union Contracts
 - Purchase Contracts
 - Wills and Trust Documents

This reference guide, to be effectively used, requires annual update each legislative session. This version has been updated through the 2008 session of the Oklahoma Legislature.

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LEGALLY REQUIRED FUNDS

1. SINKING FUNDS (Art. 10, 5.28, OK Constitution / 62 O.S., S. 431-451)

Sinking funds shall be used for the levy of additional revenue for (1) payment of interest as due (2) payment of bonds as due and (3) payment of judgments required to be paid. This is applicable to municipalities, not public trusts/authorities.

2. CEMETERY CARE FUND (11 O.S., S. 26-109)

12.5% of revenue from lot sales and interments from municipally owned cemeteries shall be segregated in a permanent fund entitled "Cemetery Care Fund" and the principal of the fund restricted to purchasing cemetery land or making cemetery capital improvements. Interest may be used for same purpose or for cemetery care and maintenance.

3. CEMETERY PERPETUAL CARE FUND (11 O.S., S. 26-201)

A trust fund required for donations or bequests made for special care to specific lots, monuments or mausoleums. Only the interest from investment of principal may be used, unless otherwise specified by the donor. Often involves a district court and trustee.

4. AIRPORT FUND (3 O.S., S. 65.12 - 65.13)

Requires all revenues obtained by a municipality from ownership, control, or operation of an airport facility to be accounted for in a separate fund. The revenue is restricted to airport operations. Municipalities in counties with population over 230,000 need not establish a separate fund. Federal and state aid for airports shall be kept in separate funds unless otherwise prescribed by the granting agency.

5. HOSPITAL FUND (11 O.S., S. 30-104)

Municipal hospital revenue shall be paid to municipal treasurer to be deposited in a separate account in the treasury to be designated a "hospital fund".

6. LIMITED PURPOSE SALES TAX FUND (68 O.S., S. 2701)

Sales tax approved by the voters and levied for a limited purpose shall be deposited in a "limited purpose fund" and used only in accordance with authorizing ordinance. All other sales tax shall be deposited in the General Fund. Fund must be interest bearing and retain the interest.

7. RECREATION GRANT/DONATION FUND (11 O.S., S. 33-109)

Money derived from recreation grants, gifts or bequests shall be deposited by the municipal treasurer in a separate continuing fund, unless otherwise specified by the donor or grantor, and be used for the specified recreation purposes.

8. SPECIAL ASSESSMENT FUNDS (11 O.S., S. 36-221 & 37-226)

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Collections from special assessment district projects shall be deposited in a separate fund and used to pay off any assessment bonds principal and interest as due. Any remaining surplus after all bonds have been retired shall be used only for the purpose of repairing or maintaining the improvements for which the assessment was made.

9. RETIREMENT/PENSION FUND (11 O.S., S. 48-101 - 48-106)

Single employer pension or retirement moneys of a municipality must be accounted for in a separate fund. The fund shall be known as the "Employee Retirement System of _____". Payments into this fund by the municipality must be appropriated by the governing body.

10. FEDERAL ASSISTANCE FUNDS (68 O.S., S. 3003B)

All funds received by a municipality from the federal government pursuant to the distribution of funds by the State shall be deposited in a fund separate and apart from all other funds.

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MUNICIPAL BUDGETING

1. MUNICIPAL BUDGET ACT (11 Q.S., S.17-201 - 17-218)

Act applies to municipalities that have opted, by resolution, to come under the Act's provisions. Key features include:

Budget Options:

1. Fund-based budget (budget for each separate fund)
2. Purpose-based budget (Crosses multiple funds)

Legal Deadlines:

1. CEO prepared budget submitted to governing body (30 days prior to start of fiscal year)
2. Public hearing on proposed budget (15 days prior to start of fiscal year)
3. Publish budget summary and notice of public hearing (5 days before hearing)
4. Adoption by governing body, by resolution, (7 days prior to start of fiscal year)
5. Submission to State Auditor & Inspector (within 30 days after start of fiscal year)

Fund-Based Budget Provisions:

- Required Content for Fund-Based Budgets:
 1. Budget Message
 2. Budget Summary
 3. Fund Budgets, in tabular form by department and object account category
 4. Three years of fund budgets (revenues and expenditures) - prior year actual, current year budget, and proposed budget year
- Requires annual budget for general fund and all other funds established by the governing body, except for grant funds and capital project funds that can be budgeted one time at start of project.
- Must be balanced (i.e. est. revenues + appropriated fund balance = appropriations).
- Accounting for expenditures must at least be at the object category level within each department as follows:
 1. Personal services
 2. Materials and supplies
 3. Other services and charges
 4. Capital outlay
 5. Debt service
 6. Interfund transfers
- The legal level of expenditure and encumbrance control is department appropriation total within a fund, if not established at a lower level by resolution.
- Cannot have expenditures + encumbrances exceed 90% of est. revenues until revenues received + beginning fund balance is least 90% of estimate.
- Budget amendments can be made anytime:
 1. Transfers - can be approved only by CEO/designee if by resolution
 2. Supplemental or Fund Decreases - requires governing body approval and submission to State Auditor's Office

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- Sinking fund estimate of needs to be filed with county excise board.

Purpose Fund-Based Budget Provisions:

- Each municipality shall adopt an appropriation for each purpose as established by the governing body;
- In all cases the appropriations shall not exceed the income and revenue provided by the governing body from estimated revenues and appropriated fund balance;
- 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;
- 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;
- 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;
- 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;
- 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
- 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.

2. ESTIMATE OF NEEDS ACT (68 O.S., S. 3001-3033 & 62 O.S., S. 461)

Act is applicable to all municipalities that have not opted, by resolution, to come under the provisions of the Municipal Budget Act in Title 11. **(Also, allows municipalities to prepare an annual budget in a form other than the Estimate of Needs)** If the Estimate of Needs is used, the statute requires budget only for General Fund and Sinking Fund at the budget filing date; and, "cash fund" budgets for certain other funds only as cash is received. Key features of the budget include:

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Legal Deadlines:

1. Prepare financial statement for close of prior year (1st Monday in August)
2. Prepare estimate of needs forms (by September 1)
3. Submit financials and needs estimate to county excise board
 - A. Incorporated towns by August 22
 - B. Cities by August 27
4. Publication affidavit filed at least 5 days after budget filing

Required Budget Content:

1. Financial Statements /Estimate of Needs is a required form (automated format on disk available) available from the State Auditor's Office (short form for towns under 1000 population)
2. Sinking Fund Budget included on the form
 3. Cash Fund Appropriation forms from the State Auditor
 4. Budget Amendment forms also from the State Auditor

Other Provisions:

- Estimated revenue of General Fund is limited to 90% of prior year recurring revenue plus unencumbered and unreserved fund balance carry-over.
- Long form requires budget to be departmentalized with the following objects:
 - A. Personal services
 - B. Maintenance and operations
 - C. Capital outlay
- Public utilities may be operated in a separate fund without appropriation
- Budget amendments:
 - A. Transfers within same fund - department head and/or governing body approval required and excise board written notification
 - B. Supplemental or Fund Decreases - decreased department head and/or governing body approval and approval by the county excise board

3. PUBLIC TRUST /AUTHORITIES BUDGET (60 O.S., S.176g)

- Public trusts created pursuant to Title 60, Section 176 shall file annually with their respective beneficiaries a copy of certain financial documents, including a budget. Amendments to the adopted budget shall be approved by the trustees and recorded in the minutes.
- This appears to establish only a requirement to prepare and file an annual budget and approve budget amendments. It does not state the form of the budget nor set a legal spending limit. The primary purpose is to serve as a financial plan.

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DEPOSITS AND INVESTMENTS

1. DEPOSITS OF PUBLIC FUNDS (62 O.S., S. 511-516)

- All funds coming into the treasurer's possession shall be deposited daily (not later than the immediately next business day) in banks, trust companies, credit unions or savings and loan associations as designated by the State.
- Deposits cannot exceed the federal insurance limit unless secured by acceptable collateral.
- Demand accounts must be established in banks, etc. within the State of Oklahoma.
- Unless otherwise provided by law, interest earnings shall be prorated by fund source.

2. UTILITY DEPOSITS (11 O.S., S. 35-107 & 11 O.S., S.17-101)

- Deposits for utility service shall be refunded or credited to the customer upon termination of service or at an earlier date as allowed by the municipality. No interest is required to be paid to customer.
- One year after termination, if deposit refund check for \$5 or less remains uncashed, municipality may cancel the check and deposit the monies in either the utility fund or General Fund.
- One year after termination, if deposit refund check for over \$5 remains uncashed, municipality shall send a written notice to customer at last-known address and inform them that the deposit will be paid over to the municipality if not claimed within 90 days of the date of the notice. If not claimed after 90 day period, municipality may pay deposit amount to the utility fund or General Fund.

3. COLLATERAL REQUIREMENTS (62 O.S., S. 517 & S. 348.1)

- Collateral, valued at market value, is required to secure uninsured deposits.
- Includes a requirement that the treasurer shall review and determine the market value of the pledged collateral not less than quarterly.
- The securities and investments that may be accepted are as follows:
 - Obligations, including letters of credit, of the U.S. Government, its agencies and instrumentalities;
 - Obligations of the state or of a county, municipality, or school district of this state or of an instrumentality thereof;
 - General obligation bonds of any other state of the U.S.; and
 - Surety bonds and letter of credit, under certain specified conditions.
- Establishes treasurer's duties in the event of a default or insolvency of a public depository.
- Provides for treasurers complying with the Act to not be held liable for any loss arising from the default or insolvency of a public depository in the absence of negligence or malfeasance on the part of the treasurer.

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- Banks cannot be approved as custodian for its own securities used as collateral for public deposits in such bank.

4. INVESTMENT OF FUNDS - MUNICIPALITIES (62 O.S., S. 348, 6 O.S., S.2042 & 11 O.S., S. 17-101)

- Written investment policy, ordinance or resolution required for investment.
- Municipalities, in accordance with policy, may invest in
 1. Obligations of the U.S. government, its agencies or instrumentalities
 2. Insured or collateralized CDs within the State, only insured CDs out of State
 3. Negotiable CDs with limitations
 4. Prime banker's acceptances with limitations
 5. Prime commercial paper with limitations
 6. Repurchase agreements with collateral
 7. SEC regulated money market funds and which investments are restricted to the items 1-6 above
 8. Obligations to the payment of which the full faith and credit of this state is pledged
 9. County, municipal or school district ad valorem tax funded debt
 10. Bonds, notes or money judgments of a county, municipality or school district
 11. Revenue anticipation notes of a public trust of which the municipality is beneficiary
 12. Securities lending programs with limitations
 13. Any bond, note or other debt of any public trusts of which the municipality is sole beneficiary or other entities whose governing boards were appointed by the municipality (excludes industrial development bonds)
 14. Notes or bonds secured by mortgage or trust deed insured by the FHA, debt issued by the Federal Housing Administrator, and obligations of national mortgage associations are allowable investments under Title 6.

5. SINKING FUND INVESTMENTS (62 O.S., S. 541-545 & S. 562)

- Investments limited to:
 1. U.S. Treasury bills, notes and bonds and Postal Savings certificates
 2. State of Oklahoma bonds and notes
 3. Interest-bearing deposit account
 4. Bonds or judgments of a court of record of the same municipality
 5. Current warrants of own municipality
- Limitations are placed on when and under what circumstances investments can be sold from the sinking fund.
- Interest on sinking fund investments must be placed first in the sinking fund; but, may then be credited or transferred to the general fund.

6. PUBLIC TRUST INVESTMENTS (62 O. S., S. 72.4a & 60 O. S., S.175.24g)

- Public trust moneys in financial institutions must be in fully insured or collateralized CDs or other evidences of deposit. Not applicable to revenue bond issue accounts covered by indenture.

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- Trust agreement authorizing investments in U.S. government issued or guaranteed obligations may also be invested by the trustee in any open or closed-end investment trust or mutual fund made up solely of such government securities and repurchase agreements fully collateralized with such government securities.
- The Title 60 public trusts are not limited by the same investment limitations of their municipal beneficiary.

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REVENUE RESTRICTIONS

1. AD VALOREM TAXES (Art. 10, S. 9, 10, 35, OK Constitution & 62 O.S., S. 361-5)

- Assessed value shall not exceed 35% of estimated fair value. Levies must be approved by the voters, except for a general 15 mill levy in each county which includes 5 mills for schools and the remaining 10 may be apportioned by the County Excise Board to the county, cities/towns and the school districts in the county.
- Municipalities are limited in their ability to levy ad valorem (property) taxes (subject to voter approval) to the following:
 1. Principal and interest on general obligation bonds
 2. Principal and interest on court judgments over \$200
 3. 5 mills for municipal hospitals
 4. 5 mills for repaying bonds issued for securing or developing industry

2. SALES TAX (68 O.S., S. 2701-06)

- Municipalities may levy sales taxes (subject to voter approval) for both general and specific purposes. No statutory limit is set on the tax rate.
- Revenues from a general sales tax are to be deposited and recorded initially in the general fund. Expenditures are not limited as to purpose other than for the good of the public.
- Revenues from a limited-purpose sales tax must be accounted for in a separate limited-purpose sales tax fund. Interest from investment of this fund must be retained in the fund. Expenditures are limited to the purposes set forth in the taxing ordinance.
- Municipalities may not propose taxing ordinances more often than 3 times in any calendar year or twice in any six-month period.
- Municipalities may provide an ordinance for the enforcement and collection of sales taxes, including penal and civil actions, to enforce payment. State may keep up to 1 3/4 % of collections for administering the collection and remittance process.

3. MUNICIPAL TAXING AUTHORITY (68 O.S., S. 2601-05, 2701)

- Municipalities may assess, by ordinance, an annual tax not exceeding 2% on the gross receipts from residential and commercial sales of power, light, heat, gas, electricity or water. This tax shall be in lieu of any other franchise, license, occupation, or excise tax levied by the municipality.
- This tax shall not apply to any person, firm, association or corporation operating under a valid franchise from the municipality.
- The tax levied under this provision shall be levied for a term of not-to-exceed one year, and shall be payable monthly.
- Incorporated municipalities are authorized to tax as provided by the state legislature for the following:

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- Uniform income tax on residents
- Uniform sales tax
- Limited motor vehicle tax

4. CEMETERY REVENUES (11 O.S., S. 26-109)

- 12.5 % of revenue from sales of cemetery lots and from interments shall be limited for purchasing cemetery land and for cemetery capital improvements. Interest from the investment of the 12.5 % principal is limited to the same purpose above plus costs of cemetery upkeep and maintenance.

5. STATE SHARED STREET & ALLEY TAX REVENUE (11 O.S., S. 36-114)

- State shared revenue from the State motor fuel tax and the motor vehicle license and registration tax may be expended only for construction, maintenance, repair, improvement, or lighting of streets and alleys. Revenues may be deposited in and paid from either a street and alley fund of a street and alley account of the general fund.

6. MUNICIPAL COURT FINES & COSTS (11 O.S., S.14-109 -111)

- Penal ordinances must be compiled and published in permanent form not less than once every 10 years. Biennial supplements must be published every 2 years, and filed with the county law library.
- Fines are limited as follows:
 - Courts of Record - maximum fines:
 - \$1,000 for wastewater/stormwater regulation violations
 - \$1,250 for alcohol or drug related traffic offenses (\$50 of each alcohol-related fine shall be used to defray costs alcohol related enforcement)
 - prostitution related offenses which may not exceed:
 - \$2,500 upon first conviction
 - \$5,000 upon second conviction
 - \$7,500 upon third and all subsequent convictions
 - all other offenses - may not exceed \$1,200
 - Courts not of Record - maximum fines:
 - \$200 for traffic-related speeding and parking citations
 - \$800 for alcohol-related or drug-related offenses(\$50 of each alcohol-related fine shall be used to defray costs alcohol related enforcement)
 - \$1,000 for wastewater/stormwater regulation violations
 - \$750 for all other offenses
 - No fines of more than \$50 allowed if penal ordinances have not been compiled and published as required
 - Maximum fine of \$10 plus \$15 court costs for any speeding citation for speeding of no more than 10 mph on a national or state highway on the outskirts of town
 - Labor to work off fines must be calculated at a rate of not less than \$50 per day
- Administrative fees:

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- A municipal court which collects a penalty assessment or other state fee from a defendant pursuant to state law may retain eight cents (\$.08) of such monies and may also retain all interest accrued thereon prior to the due date for deposits as provided in state law. The fee shall be deposited as determined by the municipal governing body.
- A municipal court in a municipality having a basic law enforcement academy approved by the Council on Law Enforcement Education and Training pursuant to the criteria developed by the Council for training law enforcement officers may retain as an administrative fee two percent (2%) of any penalty assessment or other state fee imposed by state statute. The two percent (2%) administrative fee shall be deducted from the portion of the penalty assessment or other state fee retained by such municipality.

7. E-911 FEES (62 O.S., S. 28.11-21)

- Municipalities may impose, by ordinance, a fee not to exceed 15% of the tariff rate for emergency telephone service. Revenue is restricted to fund the costs associated with the operation of the emergency telephone service.

8. METER DEPOSIT INVESTMENT INCOME (11 O.S., S. 35-102.1)

- The proceeds from any investment of meter deposit funds and any related earnings shall be placed in the fund from which the operation and maintenance expenses of the utility, for which they collected, are paid.

9. WATER SALES OUTSIDE CORPORATE LIMITS (11 O.S., 37-119 & 119a)

- All water sold to persons or entities outside the corporate limits shall be sold under written contract which provides for annual review of costs and rates to permit rate changes. Rates are limited to the costs attributable to maintaining the ability to provide water to the purchaser.
- Municipalities selling water outside corporate limits must implement an enterprise accounting system or may have to pay for such an accounting to the purchaser.

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DEBT RESTRICTIONS AND LIMITATIONS

1. CONSTITUTIONAL LIMITS (Art. 10, S. 26 - 28)

- No municipality shall be allowed to become indebted, in any manner, or for any purpose, to an amount exceeding, in any year, the income and revenue provided for the year without assent of three-fifths of the voters.
- Total indebtedness not to exceed 10% of total assessed valuation. Applies primarily to general obligation bonds.
- Municipality shall provide for an annual tax sufficient to pay principal and interest on the bonds from the sinking fund for a term of not more than 25 years.
- Municipalities may become indebted in a larger amount than 10% of assessed value for the purpose of purchasing, constructing, or repairing public utilities or streets.
- Individual or joint water project indebtedness, approved by the voters and secured by water revenue, may be issued for a period of not more than 30 years and are not included in the 10% limit.
- Revenue bonds may be issued by a municipality, with certain limitations and voter approval required under certain circumstances. (See Art. 10, S. 27B)

2. GENERAL OBLIGATION BONDS (62 O.S., S. 351-354, 399-403, 411-412, 423-426)
(11 O.S., S. 22-128, 37-107) (62 O.S., S. 498.1)

- G.O. bonds must be sold at least at 99% of par plus accrued interest.
- Principal may not start maturing for two years after issuance date.
- Requires uniform maturities of principal or level debt service payments annually.
- Interest on general obligations bonds are limited to 10% except for general obligation special assessment bonds which are limited to 6%. Interest may not be payable more often than semiannually.

3. PUBLIC TRUST INDEBTEDNESS (60 O.S., S.176)

- No municipal trust may become indebted unless approved by 3/4 vote of the governing body of the beneficiary.
- No bonds may be sold for less than par unless approved by 3/4 vote of trustees and governing body members of beneficiary. Under no circumstances will bonds be sold at less than 65% of par.
- Original purchaser discount (fees) shall not exceed 4% and interest rate shall not exceed 14%.

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4. RENTAL OR LEASE OBLIGATIONS (62 O.S., S. 430.1)

- Any rental contract extending beyond June 30 of the fiscal year shall contain provisions for mutual ratification of renewal. Lease contract is in effect only valid through availability of current year revenue per the Constitution.
- Lease agreements where title is to be acquired by the municipality shall state the purchase price and be limited to 10% simple interest.

5. SPECIAL ASSESSMENT BONDS

**(11 O.S., S. 32-105 -114, 36-216 - 406,
37-222 - 231, 39-115 -116, 40-106 -110)**

- Special assessment bonds are limited to unpaid assessments remaining after 30 days of ordinance and are limited to 12% interest until maturity and 15% after maturity. Certain types of assessment bonds have different rate limitations.
- Obligation shall in no way become a liability of the municipality; and, is solely payable from assessments. Bonds are mandatory callable when sufficient funds are available from assessments.
- Central business redevelopment districts may issue bonds funded by tax increment financing. These bonds are not general obligations of the government and are solely payable from the incremental property taxes generated by the district projects.

6. MUNICIPAL UTILITY REVENUE BONDS (11 O.S., S. 22-150 -158)

- Implementing legislation pursuant to Article 27B of the State Constitution discussed previously.
- Requires 3/4 approval of the governing body and under certain circumstances requires voter approval.
- Interest rate limited to 14% and other similar public trust debt limitations.

7. JUDGMENTS (Art. 10, S. 28 of Constitution; 62 O.S., S. 431-435 & 361-365)

- Judgment defined as a final determination by any court of competent jurisdiction in any action or proceeding to determine the rights of parties.
- Includes all judgments meeting the definition over \$200.
- Judgments are repaid through the sinking fund in three equal installments plus interest.
- Interest rate on judgments shall be equal to the annual average U.S. Treasury Bill rate of the preceding year as certified by the State Treasurer plus 4%, not to exceed a total rate of 10%. (See 12 O. S., S. 727)

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PURCHASING AND SPENDING

1. CONSTITUTIONAL LIMITS (Art. 10, S.14, 15 & 17)

- Municipalities may not become a stockholder in any company, association, or corporation; nor may it obtain or appropriate money for, or levy any tax for, or loan its credit to any corporation, association or individual.
- Taxes shall be levied and collected by general laws and used for public purposes only.
- Municipalities may not make a donation by gift in any way to any company, association, or corporation. (Exception is made in 11 O.S. Section 22-125 for gifts of money for buildings or construction or real property to college or school within the municipality.)

2. TRANSFERS TO PUBLIC TRUSTS (60 O.S., S.176a)

- No funds of the trust beneficiary derived from sources other than the trust property, or the operation thereof, shall be charged with or expended for the execution of the trust, except by express action of the legislative authority of the beneficiary prior to the charging or expending of the funds.

3. PAYROLL PURCHASE ORDERS (62 O.S., S. 304.1)

- Appears to provide for but not require the certification of payroll payments by the governing body through a payroll purchase order.
- If this statute is followed, an itemized payroll statement from each department certified with an affidavit by both the department head and the city clerk. Only the totals by appropriation account and fund need to be included in the purchase order which may be encumbered the date approved by the governing body or the date payments are made.
- Payroll taxes, retirement and other contractual benefit payments to outside entities may be paid without a purchase order or further approval of the governing body,

4. UTILITY BILLINGS (62 O.S., S. 305.1)

- If authorized by the governing body, municipalities may pay regular periodic billings of any municipal utility or of any public utility whose rates are controlled by the Corporation Commission or any other public regulatory body of any utility coop for utility services without the need for a purchase order or invoice.
- No late charge shall be attached or discount denied the municipality on any such bill until a 30-day period has lapsed from the receipt of the bill.

5. PURCHASE ORDER ACT (62 O.S., S. 310.1- 310.9)

- Unless otherwise provided by ordinance, municipalities are required to follow the provisions of this Act when making acquiring goods and services.

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- Purchase orders shall have written approval of a purchasing officer and an encumbering clerk prior to release.
- Invoices are required, after satisfactory delivery, and shall be itemized.
- The individual receiving satisfactory delivery of merchandise shall acknowledge that fact by signing the invoice or delivery ticket; and, no purchase order shall be approved for payment by the governing body unless the required signed invoices or delivery tickets are attached.
- The invoices, along with attached supporting documentation, shall be submitted to and examined by the governing body for review of legality. The governing body shall approve the invoices for payment in the amount determined just and correct. As an alternative, a municipality may, by ordinance, authorize the CEO or their designee to approve the invoices for payment as long as adequate internal controls are present in the ordinance.
- Every contract with an architect, contractor, engineer or supplier of materials for \$25,000 or more shall be accompanied by a sworn statement per 74 O.S., S. 3109.
- Blanket purchase orders for recurring purchases, approved by the governing body, may be used. No limit on blanket P.O. amount for municipalities. Before transacting the purchase pursuant to a blanket purchase order, the order shall be submitted to the governing body for approval.
- Unencumbered balances at the close of the fiscal year may remain open as a credit until September 30, next. Municipality shall, anytime in July, publish a notice for two consecutive times in a daily paper or once in a weekly paper to inform vendors " that all invoices and documentation pertaining to a purchase order or contract for goods or services provided prior to July 1 for that fiscal year must be provided to the municipality by September 30 or it will be void and barred from payment".

6. PAYMENT OF INVOICES (11 O.S., S.17-102-104; 17-114; 22-134) (62 O.S., S.505; 471-485; 488; 551-555; 601-605)

- Invoices must be in writing and examined per the Purchase Order Act or municipal ordinance.
- Employee claims for payment or reimbursement must be in the form of a written statement and include all receipts supporting the amount expended and/or claimed.
- Invoices may be paid by warrant, check, wire transfer, direct payroll deposit, or other disbursement method of the Federal Reserve.
- Warrant or check shall be signed by the officers designated in the ordinance, or in absence of such officer, by the municipal treasurer.
- Facsimile signatures may be used in lieu of manual signatures provided the authorized signing officer has filed and certified their signature with the Secretary of State.
- Warrants and checks not paid within one year of issuance may be voided. Certain public notices are required for warrants.
- Municipalities may use "uniform jacket" to include multiple invoices or contract estimates and supporting documentation related to a contract. The jacket will contain the necessary approvals on its face.

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- Any municipal document, other than warrants, checks or drafts, relating to purchasing or accounts payable may be approved by the municipality by an electronic process in lieu of a manual written approval.
- Petty cash funds may be used in amounts established the governing body. The petty cash fund shall be reimbursed by using itemized vouchers or voucher slips and processed in the same manner of other payments for goods or services.

7. MISAPPROPRIATION OF FUNDS (62 O.S., S. 371-374)

- Any officer who orders or directs payment to a claim they know to be fraudulent, void or unauthorized, and every person who having notice of the facts is a participant in the illegal transaction shall be held jointly and severally liable to the person damaged and the municipality for triple the amount of money or property involved to be recovered by the municipality or any resident or taxpayer.
- Within two years of transfer of municipal property or funds, ten resident taxpayers may file a written petition demanding proper proceedings at law or in equity be initiated by the governing body to recover such sums as may have been paid illegally. After notice, if governing body fails to act within six months, an affected resident may initiate, with the State as plaintiff, a lawsuit to recover. In this event, the municipality will be made the defendant, and 1 /2 of the value of the money or property recovered shall be paid to such resident as a reward.

8. COMPETITIVE BIDDING ACT (61 O.S., S.101-136)

- Applicable to both municipalities and their public trusts.
- Public construction contracts exceeding \$50,000 shall be let and awarded to lowest responsible bidder through open competitive bidding that meets the requirements of the Act. Public construction contracts less than \$50,000 shall be let and awarded to the lowest responsible bidder by receipt of written bids. Public construction contracts for minor maintenance or repairs that are less than \$2,500 may be negotiated with a contractor without bidding. Public construction contracts include any public improvements and construction or repair or maintenance to buildings. May be waived by 2/3 vote of all members if emergency exists.
- Such contracts shall be awarded to the lowest responsible bidder after solicitation of sealed bids and a written contract will be executed. If awarded to someone other than the lowest bidder, a publicized statement setting forth the reasons is required and must be kept in official records.

9. COMPETITIVE BIDDING - PUBLIC TRUSTS (60 O.S., S.176h)

- Public trusts have further statutory bidding requirements in addition to the Competitive Bidding Act.
- Contracts for construction, labor, equipment, materials or repairs in excess of \$25,000 shall be awarded to the lowest and best competitive bidder, pursuant to a public invitation to bid which shall be published.
- Trustees may, in formal documented action, waive bidding if an emergency exists in order to avoid loss of life, substantial damage to property, or damage to the public peace and safety.

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10. CONFLICTS OF INTEREST (11 O.S., S. 8-113; 60 O.S., S.178.8; 62 O.S., S. 371)

- Municipalities - No municipal officer, employee who can enter involved with purchase decisions, or spouse thereof that has more than a 25% ownership in a business shall engage in any business transactions with the municipality. This includes acquiring any surplus property of the municipality or any of its public trusts unless offered for sale to the public.
- Municipalities may not contract, directly or indirectly, with a member of the governing body. Exceptions include: contracts with utilities governed by the Corporation Commission; contracts or deposits with financial institutions; and, for cities/towns under 2,500 population, contracts with only businesses of its type within 5 miles of city/town limits, limited to \$500 per transaction and \$10,000 annually. The related party business transactions annual limit has been modified to indicate that the \$10,000 annual limit will not apply if the municipality purchases items from the business that are also sold to the regular public in the normal course of business and the price charged to the municipality does not exceed the price charged to the general public.
- Public Trusts - A conflict of interest will exist in a contractual relationship between the trust and a trustee or any for-profit corporation of which the trustee or any member of their immediate family is an officer, partner or owner for goods and services or other contracts. If done through competitive bidding and relationship is publicly disclosed, the trustee is subject to removal. A compilation of all such related party transactions must be maintained. Certain exemptions apply, including: loaning money to the trust, buying trust obligations, legal advertising, banking services, and the sale of public utilities to the trust.

11. GOVERNMENTAL TORT CLAIMS ACT (51 O.S., S.151-167)

- Liability Limits for Tort Claims:
 - \$25,000 for any claim or claimant for property loss per occurrence
 - \$125,000 - \$200,000 total for any claimant for any other loss per occurrence
 - \$1,000,000 for all claims arising out of a single occurrence
 - No punitive or exemplary damages may be awarded
- Claims must be presented within 1 year of the date the loss occurs or it is barred.
- Claim must be filed in writing with the clerk of the governing body.
- Settlements in excess of \$10,000 not covered by insurance shall be approved by the district court and be entered as a judgment.
- For judgments under this provision, the manner of payment must follow the 3-year sinking fund tax levy process unless the court approves alternative funding periods of between 1 and 10 years.

12. REVERSE AUCTION BIDDING (11 O.S., S. 17-115)

- A municipality or any public trust of which the municipality is beneficiary is authorized to use a reverse auction bidding procedure to obtain bids for the purchase of goods or services of any type of kind. The reverse auction shall be a real-time bidding process taking place at a previously scheduled time and Internet location and for a previously established duration, in which multiple suppliers, anonymous to each other, submit bids to provide the goods or services. The reverse auction procedure may be used as an alternative to any state law applicable to the purchase of the goods or services.

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- All bids submitted electronically through the reverse auction bidding process pursuant to this section are subject to the same public disclosure laws that govern bids received pursuant to any other law of this state governing procurement procedures for a municipality or public trust.

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PAYROLL AND COMPENSATION

1. FAIR LABOR STANDARDS (61 O.S., S.3)

- Fair Labor Standards Act (29 U.S.C., Sections 201-209) are to be followed by public employers and sets a normal work day as 8 hours and normal work week of 40 hours.
- Act addresses: Minimum wage, overtime compensation, child-labor, pay equality and recordkeeping.

2. DUAL OFFICE HOLDING, NEPOTISM AND BONDS (11 O.S., S. 8-105 -106)

- A member of the governing body shall not receive compensation for service in any municipal office or position other than their elected office.
- No elected or appointed official shall appoint or elect any person related by affinity or blood within the third degree to any governing body member of themselves.
- The municipal treasurer and any officer or employee designated to sign warrants or checks and any others designated by ordinance shall give a performance bond within 10 days of appointment or election in an amount determined by the governing body. Municipality shall pay the premium.

3. ELECTED OFFICIALS COMPENSATION (11 O.S., S. 9 -116)

- Compensation shall be fixed by ordinance for all elected officials.

4. RETIREMENT CONTRIBUTIONS (11 O.S., S. 49-122 & 50-109)

- Minimum payment to the State Plans for paid firefighters and police officers is 21 %. A maximum of 8% can be withheld from the employee and at least 13% employer contribution. Such employee deductions are considered income tax deferred under IRC 414(h).
- For volunteer firefighters, municipality shall contribute \$60 per year per volunteer. Municipalities with under \$25,000 of annual general fund revenue are exempt.

5. TAX TREATMENT FOR INDEPENDENT CONTRACTORS (11 O.S., S. 8-115)

- The new law in 2007 indicates that an attorney, engineer, or member of a profession who performs duties required or permitted by statute as an attorney, prosecutor, judge, engineer, or other professional for a state or local government pursuant to a retainer or service contract shall be presumed to be an independent contractor and not an employee for all purposes, including IRS tax treatment. The new law effective November 1, 2007.

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PUBLIC TRUSTS AND AUTHORITIES

1. TRUSTS FOR FURTHERANCE OF PUBLIC FUNCTIONS (60 O.S., S.176-180)

- May be created by express approval of 2/3rds of the membership of the governing body. These trusts are considered separate legal entities from their beneficiaries.
- Trusts are prohibited from engaging in any activities in which the beneficiary is prohibited.
- Beneficiary may lease its property to the trust after acceptance of beneficial interest.
- Beneficiary may convey title of airport property to industrial development authority for selling purposes in relation to industrial development.
- Trustees shall be appointed by the governing body of the beneficiary.
- Amendments to the trust require 2/3rds vote of trustees.
- Other trust limitations are discussed elsewhere throughout this document, including:
 - Debt restrictions
 - Competitive bidding
 - Budget requirements
 - Annual audit requirements
 - Conflict of interest

2. LOCAL INDUSTRIAL DEVELOPMENT TRUSTS (62 O.S., S. 651-664)

- Governed separate from Title 60 trusts.
- Trustees are appointed by the beneficiary's governing body.
- Revenue bonds require voter approval. Issued by trustee resolution. Interest limited to 10%. Revenue bonds shall not be a general obligation of the municipality; and are payable solely from the trust's gross revenues.
- All contracts for \$2,000 or more for materials, supplies, equipment or construction shall be awarded through publicly advertised bids to the lowest and best bidder.

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MISCELLANEOUS PROVISIONS

1. AUDIT REQUIREMENTS (11 O.S., S.17-105 -113; 60 O.S., S.180.1-.3)

- Municipalities
 - 2,500 or more population and \$25,000 of annual general fund income, municipality must order a financial statement audit no later than 30 days after year end.
 - Under 2,500 population and more than \$25,000 income to its general fund, and for whom an annual financial statement audit is not required by another law, regulation or contract, may have either a financial statement audit or an agreed-upon procedures attestation engagement.
 - Less than \$25,000 of annual general fund income, no audit or attestation requirements exist.
 - Within 30 days of receipt of audit or attestation report, municipality will publish a notice of availability of the report for public inspection. Failure to submit when required causes gas excise tax to be withheld. If not provided within 2 years of fiscal year close, gas tax is given to the county.
 - Copies of the audit report to be supplied with annual survey form and \$40 check to the State Auditor within six months of year end.

- Public Trusts
 - Trusts with beneficiaries having population of 2,500 or more than \$50,000 of annual revenue shall have an annual financial statement audit.
 - Trusts with beneficiaries having under 2,500 population and more than \$50,000 annual revenue, and for whom an annual financial statement audit is not required by another law, regulation or contract, may have either a financial statement audit or an agreed-upon procedures attestation engagement.
 - Less than \$50,000 of annual revenue, audit and attestation requirements may be waived upon approval of the State Auditor and Inspector..
 - Audit and attestation reports must be ordered within 30 days of year end and be filed with the State Auditor and trust beneficiary no later than 6 months after the close of its fiscal year.

2. LOCAL DEVELOPMENT ACT (62 O.S., S. 850-869)

- Provides for municipal creation of a local development district or project that can be funded through various tax incentives or tax increment financing for a limited time.

- Provides for the issuance of tax apportionment bonds or notes subject to governing body approval.

3. RECORD RETENTION REQUIREMENTS (11 O.S., S. 22-131)

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- A municipality may sell for salvage or otherwise destroy papers, documents and records after the following expiration dates:
 - One year - parking citations
 - Two years - Court warrants, audited utility receipts/ statements and other billing records
 - Five years - Payroll and purchasing records, court records, paid bond records, checks, ect.
 - Ten years -Inventories, appropriation ledgers, cash receipt book and register for all funds
 - Fifteen years - Sewer and water improvement district records

- None of the above records may be destroyed if they are subject to pending litigation.

- Records may be stored, as original, on photocopy, photograph, microfilm or stored on optical disk.

4. FAILURE TO HOLD ELECTIONS (11 O.S., S.16-103.1)

- Failure to hold required municipal general and special elections for elective offices for a four year period shall result in the loss of state shared gas tax and vehicle registration fees.