



Local Government Budget Act (LGBA)

R.S. [39:1301](#) - [1315](#)

Overview

The following summary of the general principles and guidelines concerning [Louisiana's Local Government Budget Act](#) is presented in a frequently asked questions (FAQ) format. While the FAQ is fairly detailed, remember that every situation is unique and that each situation, therefore, deserves careful individual review.

To facilitate use of this document, links will direct your attention to text within the document and to related documents posted on the Louisiana Legislative Auditor's website and on external websites. For example, clicking the question number in the Index will link directly to related text in the FAQ. Within the FAQ, links will direct you to other areas of the FAQ and to relevant external documents. Clicking on the individual question number in the text will link to the Index to allow you selection of another question.

Index

Introduction

- 1.** What is the Local Government Budget Act (LGBA)?
- 2.** What is a public budget?
- 3.** What type of budget does the LGBA require?
- 4.** How does the LGBA define a proposed budget?
- 5.** How does the LGBA define an adopted budget?

Entities

- 6.** Which entities are subject to the LGBA?
- 7.** How are political subdivisions defined under the LGBA?
- 8.** How does the LGBA apply to school boards?
- 9.** Does the LGBA apply to charter schools?
- 10.** How does the LGBA apply to the courts?
- 11.** What deadline applies for the courts?
- 12.** Does the LGBA apply to independent elected officials?
- 13.** What deadline applies for independent elected officials?
- 14.** How does the LGBA apply to quasi-public entities?

Funds

- 15.** What are general and special revenue funds?
- 16.** Is a judicial expense fund a special revenue fund or a general fund?

Procedures

- 17.** What special public participation rules apply to political subdivisions that propose to spend \$500,000 or more from the general fund or any special revenue fund in a fiscal year or similar budgetary period?
- 18.** What public participation rules apply to political subdivisions that propose to spend less than \$500,000 from the general fund or any special revenue fund in a fiscal year or similar budgetary period?

Preparation of Budget for Adoption and Public Notice

- 19.** Who is responsible for preparing the budget?
- 20.** What must the budget include?
- 21.** Who submits, receives and adopts the budget document?
- 22.** What process is required for preparing and publishing the proposed budget?
- 23.** What document must accompany the proposed budget?
- 24.** What type of budget adoption instrument should accompany the proposed budget?
- 25.** How does the LGBA define an ordinance?
- 26.** What should an adoption instrument include?
- 27.** Which branch of government must receive the proposed budget?
- 28.** When must the proposed budget be made available for public inspection?
- 29.** Where should the proposed budget document be available for public inspection?
- 30.** When must the public be afforded an opportunity to participate in the budget process?
- 31.** To facilitate public participation for budgets which propose expenditure of \$500,000 or more, what notice, publication, and public hearing requirements must be met by political subdivisions, elected officials, and school boards?
- 32.** What is the official journal?
- 33.** How many public hearings must occur prior to consideration for adoption of budgets which propose expenditure of \$500,000 or more?
- 34.** How does a political subdivision certify that the notice process has been completed?

Adoption of Budget

- 35.** Must the budget be adopted in an open meeting?
- 36.** What information must be included in the adopted budget?
- 37.** How does a Lawrason Act municipality adopt and amend budgets?
- 38.** Who retains a certified copy of the adopted budget and adoption document?

Amendment

- 39.** Do the provisions for amending the budget apply to amendments to the proposed budget?
- 40.** What is the purpose for mandatory budget amendments in the LGBA?
- 41.** How is the adopted budget amended?
- 42.** When must governing authorities amend their adopted budgets?
- 43.** What revenue, expenditure, and fund balance variances require a chief executive officer with a budget of \$500,000 or more to alert the governing authority in writing?
- 44.** Must the governing authority adopt a budget amendment if there is a 5% variance in revenues or expenditures or beginning fund balance?
- 45.** Do the written notification requirements provided in R.S. 39:1311 apply to special revenue funds of less than \$500,000?
- 46.** What circumstance is considered a “change in operations” that triggers a budget amendment?
- 47.** When must independently elected parish officials amend budgets?
- 48.** Do any special notification requirements exist for elected chiefs of police?

General

- 49.** May an entity require more stringent rules than the LGBA?
- 50.** Who may, on behalf of the political subdivision, incur liabilities and authorize expenditures from the respective budgeted funds during the fiscal year?
- 51.** Does the LGBA limit an entity’s ability to contract?
- 52.** What happens if the political subdivision does not appropriate funds/adopt a budget in each fiscal year?
- 53.** Which certified documents must a chief executive or administrative officer keep, and where must the documents be located?
- 54.** How do emergencies affect the expenditure of funds?
- 55.** What are the penalties for violating the LGBA?

- 56. What actions may an individual pursue to force compliance with the LGBA?**
- 57. May a local government entity budget for less than a full fiscal year?**

[Helpful Links](#)

[Attorney General \(AG\) Opinions](#)

[Index to LGBA Statutes](#)

Introduction

Q.1. What is the Local Government Budget Act (LGBA)? **R.S. 39:1301-1315**

A.1. The Local Government Budget Act (LGBA), found in R.S. 39:1301-1315, directs political subdivisions of the State as to the manner in which the budget of the political subdivisions shall be adopted, implemented, and amended. These laws, collectively called the LGBA, direct a political subdivision to allow for public participation prior to the adoption of a budget. The laws further call for financial planning and budgeting practices, which will secure the public dollars entrusted to the leaders of the political subdivision. The requirements of the laws shall be considered minimal requirements. A political subdivision may require even more stringent financial planning and budget practices.

Q.2. What is a public budget?

A.2.

- It is a legal document;
- It is a public document;
- It is a one-year plan for accounting for revenues and expenditures of the political subdivision;
- It is a complete financial plan; and
- It includes the general fund and each special revenue fund.

Q.3. What type of budget does the LGBA require? **R.S. 39:1303**

A.3. Each political subdivision must prepare a comprehensive budget presenting a complete financial plan for each fiscal year for the general fund and each special revenue fund.

Q.4. How does the LGBA define a proposed budget? **R.S. 39:1302**

A.4. A proposed budget is the budget prepared and submitted to the governing authority of the political subdivision by the chief executive or administrative officer.

Q.5. How does the LGBA define an adopted budget? **R.S. 39:1302**

A.5. An adopted budget is 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.

* R.S. 39:1305(F), which authorizes a governing authority to make amendments to the proposed budget prior to adoption, limits the power of Lawrason Act municipalities to amending the proposed budget only to the extent that the amendments do not substantially change the proposed budget. See Act 96 of the 2019 Regular Session.



New
2019

Entities

Q.6. Which entities are subject to the LGBA?

R.S. 39:1303

A.6. The LGBA applies to all political subdivisions (as defined in R.S. [39:1302](#)) of the state that have a general fund or a special revenue fund.

Special public participation rules are triggered if the subject entity plans to spend \$500,000 or more.

Additionally, the LGBA applies to (1) municipalities governed by the Lawrason Act; and (2) political subdivisions operating under a home rule charter or plan of government adopted or in existence pursuant to and under the authority of Article VI of the Louisiana Constitution of 1974 only if and when it does not conflict with the terms of the home rule charter or plan of government.

Q.7. How are political subdivisions defined under the LGBA?

R.S. 39:1302

A.7. Political subdivisions are defined in the LGBA to mean any:

(a) Parish governing authority* and all districts, boards, or commissions created by the parish governing authority (either independently or in conjunction with other units of government). *A governing authority is the body that exercises the legislative functions, e.g., the police jury or the parish council.

(b) Municipality and all boards and commissions created by the municipality, either independently or in conjunction with other units of government.

(c) [School board](#) (to the extent that it does not conflict with R.S. [17:88A](#)).

(d) Special district created pursuant to and under the authority of Article VI, § 16 or §19 of the Louisiana Constitution.

(e) [City court](#).

(f) District public defender office.

(g) Housing authority.

(h) Mortgage authority.

(i) Political subdivisions of the State not included within the State's Comprehensive Annual Financial Reports.

(j) Registrar of voters.

(k) Independently elected parish offices, including the office of assessor, clerk of district court, coroner, [district attorney](#), sheriff, and judges (but only as to their judicial expense funds, as provided for in Title 13 of the Louisiana Revised Statutes of 1950).

Q.8. How does the LGBA apply to school boards? R.S. [39:1302](#)

A.8. The LGBA applies to school boards only to the extent that it does not conflict with R.S. [17:88A](#), which requires each city and parish school board to adopt no later than September 15th of each year a budget for the general fund and each special revenue fund for the fiscal year, July 1st through June 30th. The revenue/receipts shall be those normally expected from constitutional, statutory, and regular sources and shall not include probable revenues/receipts that may arise from doubtful or contingent sources.

Further, the school board shall no later than September 30th submit to the State Superintendent a copy of its adopted budget as required by R.S. [17:88C](#).

Q.9. Does the LGBA apply to charter schools? R.S. [17:3996\(G\)](#)

A.9. Yes. According to [AG Op. No. 06-0334](#) (based on R.S. 17:3996(G)), charter schools must comply with the LGBA.

Q.10. How does the LGBA apply to the courts? R.S. [39:1302](#)

A.10. The LGBA applies to the courts, but only as to judicial expense funds. Thus, the courts must prepare a budget document related to those funds. Criminal court funds, unless exempted by law, are paid into a “Criminal Court Fund” account within the parish treasury; the parish governing authority must, therefore, along with its other special revenue funds, prepare a budget for this account under the LGBA. [AG Op. No. 11-0266A](#)

Q.11. What deadline applies for the courts? R.S. [39:1306](#)

A.11. Budgets for judicial expense funds shall be completed and made available for public inspection (as required by R.S. [39:1308](#)) no later than fifteen days prior to the beginning of each fiscal year.

Q.12. Does the LGBA apply to independent elected officials? R.S. [39:1302](#)

A.12. The LGBA applies to independently elected parish offices, including the office of assessor, clerk of district court, coroner, [district attorney](#), sheriff, and judges (but only as to their judicial expense funds, as provided for in Title 13 of the Louisiana Revised Statutes of 1950).

Q.13. What deadline applies for independently elected officials?

R.S. [39:1306](#)

A.13. Independent elected officials must complete their budgets and make them available for public inspection (as required by R.S. [39:1308](#)) no later than fifteen days prior to the beginning of each fiscal year.

Q.14. How does the LGBA apply to quasi-public entities?

A.14. Quasi-public entities are not subject to the LGBA unless they are declared a political subdivision under the definitions contained in R.S. [39:1302\(3\)](#). In [AG Op. No. 06-0171](#), the Attorney General opined that a volunteer fire department (VFD) that is primarily funded with public funds, serves a public purpose and renders a public service is classified as a quasi-public body. However, although a volunteer fire department is a quasi-public entity, it is not defined as a political subdivision pursuant to R.S. 39:1302(3). Therefore, it is not required to comply with the LGBA. See also [AG Op. No. 15-0080](#).

In another example, a housing authority is a quasi-public entity that is included in the R.S. [39:1302\(3\)\(g\)](#) definition of political subdivision, and is therefore subject to LGBA.

Funds

Q.15. What are general and special revenue funds?

A.15. The LGBA does not define general and special revenue funds. In **AG Op. No. 03-0300**, the AG described these funds based on principles established by the Governmental Accounting Standards Board (GASB). The AG stated: “There are three categories of funds: government funds, proprietary funds, and fiduciary funds. Government fund types include the general fund and special revenue funds.

“The general fund accounts for most of the basic services provided by a governmental unit. The general fund is responsible for all resources not found in some other fund and accounts for all the assets and resources that finance the general operations of the governmental unit.

“Special revenue funds account for restricted sums that are intended for specific purposes. Each special revenue funds is financed by a tax or other source of revenue that is reserved for the purpose of the fund.”

Q.16. Is a judicial expense fund a special revenue fund or a general fund?

R.S. [39:1302](#)

A.16. A judicial expense fund is a general fund and not a special revenue fund for the purposes of the written notice requirements of R.S. 39:1311(B). See, **AG Op. No. 03-0300**.

Procedures

Q.17. What special public participation rules apply to political subdivisions that propose to spend \$500,000 or more from the general fund or any special revenue fund in a fiscal year or similar budgetary period? R.S. [39:1307](#)

A.17.

- Give Notice via [Publication](#) that the budget is available for inspection;
- Give Notice via Publication of Public Hearing – Notice should be given at least 10 days prior to the hearing
 - where applicable, publication shall be in the official journal of political subdivision;
 - if the political subdivision is not required to have an official journal, publication shall be in the official journal of the governing authority of the parish where political subdivision is located; where political subdivision is located within boundaries of more than one parish, then publication shall be in the official journal of the governing authority of each parish.
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- Must have at least 1 Public Hearing; and
- After Public Hearing, certify completion of public participation requirements by publishing a notice in the same manner as provided for the notice of availability of the proposed budget and public hearing.

Q.18. What special public participation rules apply to political subdivisions that propose to spend less than \$500,000 from the general fund or any special revenue fund in a fiscal year or similar budgetary period? R.S. [39:1307](#)

A.18. Political subdivisions that propose to spend less than \$500,000 from the general fund or any special revenue fund in a fiscal year (or similar budgetary period) do not have to advertise as required under R.S. [39:1307](#) nor provide for a public hearing on the proposed budget. However, all other public participation [rules](#) apply -- including that adoption of the budget and any amendments must occur in an open meeting and that the opportunity for inspection be afforded to the public. See **AG Op. No. 87-0190** and **AG Op. No. 89-512** for comment.

Preparation of Budget for Adoption and Public Notice

Q.19. Who is responsible for preparing the budget? R.S. [39:1305](#)

A.19. The chief executive or administrative officer of the political subdivision or, in the absence of those positions, an equivalent person shall prepare the proposed budget.

Q.20. What must the budget include?

R.S. 39:1305

A.20. The budget sets forth the proposed financial plan for the general fund and each special revenue fund. The budget must include the following:

- (1) A budget message that is signed by the budget preparer and that contains:
 - a summary description of the proposed financial plan, policies, and objectives, assumptions, budgetary basis, and
 - a discussion of the most important features.

- (2) A statement for the general fund and each special revenue fund showing the:
 - estimated fund balances at the beginning of the year;
 - estimates of all receipts and revenues to be received;
 - revenues itemized by source;
 - recommended expenditures itemized by agency, department, function, and character;
 - other financing sources and uses by source and use; and
 - the estimated fund balance at the end of the fiscal year.

- In addition to the estimates previously required by R.S. 39:1305(C)(2)(a), estimates after January 1, 2011 shall also include:

A clearly presented side-by-side detailed comparison of such information for the current year, including the fund balances at the beginning of the year, year-to-date actual receipts and revenues received and estimates of all receipts and revenues to be received the remainder of the year; estimated and actual revenues itemized by source; year-to-date actual expenditures and estimates of all expenditures to be made the remainder of the year itemized by agency, department, function, and character; other financing sources and uses by source and use, both year-to-date actual and estimates for the remainder of the year; the year-to-date actual and estimated fund balances as of the end of the fiscal year; and the percentage change for each item of information.

School boards shall itemize revenues and expenditures according to guidelines provided by the Louisiana State Department of Education, but must also include the side by side comparison.

[AG Op. No. 12-0048](#)

The total of proposed expenditures shall not exceed the total of estimated funds available for the ensuing fiscal year, i.e. the beginning fund balance and any anticipated revenues.

If, upon the request of the governing authority, the chief executive or administrative officer of the political subdivision fails to submit its budget document showing the information concerning revenue sources as mandated by this Subsection, the governing authority shall not appropriate any general funds to that political subdivision.

Q.21. Who submits, receives and adopts the budget document? R.S. [39:1305](#)

A.21. The chief executive or administrative officer of the political subdivision prepares the proposed budget. If the political subdivision has a governing board, such as a police jury, city or parish council, the chief executive or administrative officer submits the proposed budget to all of the members of the governing board. If the board does not adopt the proposed budget through an ordinance or resolution, then the chief executive must re-submit the proposed budget.

According to [R.S. 17:88\(C\)](#) a school board must submit its adopted budget to the State Superintendent of Education by September 30th.

Q.22. What process is required for preparing and publishing the proposed budget?

A.22. The process depends on whether the budget is being proposed for an entity or an independently elected official See [Q.24](#), and the amount proposed to be expended See [Q.17.](#) and [Q.18.](#)

Q.23. What document must accompany the proposed budget? R.S. [39:1305](#)

A.23. A proposed [budget adoption instrument](#) should be submitted with a proposed budget.

Q.24. What type of budget adoption instrument should accompany the proposed budget? R.S. [39:1305](#)

A.24. The type of budget adoption instrument required varies by type of governmental entity. For example, a Lawrason Act municipality requires an ordinance. The budget adoption instrument for:

- independently elected parish offices shall consist of a [letter](#) from the independently elected official authorizing the implementation of the adopted budget. Independently elected officials include sheriffs, assessors, coroners, district attorneys, courts, and clerks of court. For example, a sheriff prepares the budget, publishes the budget and provides an opportunity for inspection. No board exists to approve a sheriff's budget.
- any municipality, parish, school board, or special district shall be an [appropriation ordinance](#), [adoption resolution](#), or [other legal instrument](#) necessary to adopt and implement the budget document. The president of a police jury will prepare and submit the budget for approval by the police jury or parish council.

Q.25. How does the LGBA define an ordinance? R.S. [39:1302](#)

A.25. An ordinance is a written instrument that is enacted after specified delays. The manner in which the ordinance is enacted depends on the particular rules of the entity.

Q.26. What should an adoption instrument include?

R.S. [39:1305](#)

A.26. An adoption instrument shall define the powers reserved solely to the governing authority of a political subdivision, as well as the authority of the chief executive and administrative officers to make changes within various budget classifications without approval by the governing authority.

Q.27. Which branch of government must receive the proposed budget?

R.S. [39:1306](#)

A.27. The chief executive and administrative officers must submit the proposed budget to the governing authority. For example, a parish president must send the proposed budget to the police jury or parish council.

Independently elected officials do not have a governing board; thus, they do not “submit” their budget to any entity. For example, a sheriff adopts the budget without a board’s approval.

Q.28. When must the proposed budget be made available for public inspection?

R.S. [39:1306](#)

A.28. The time when a proposed budget must be made available for public inspection depends on the type of public entity involved. Proposed budgets for:

- Political subdivisions with a governing authority including municipalities, parishes, school boards, and special districts shall be completed and submitted to the governing authority of that political subdivision and made available for public inspection as provided for in R.S. [39:1308](#) no later than 15 days prior to the beginning of each fiscal year;
- School boards shall be completed and submitted to the school board and made available for such public inspection no later than 15 days prior to the date for budget adoption by school boards as required in R.S. [17:88\(A\)](#);
- Parishes shall be completed and submitted to the parish governing authority and made available for such public inspection prior to the 15th day of the fiscal year for which the budget is to be applicable; and
- Elected public officials including a registrar of voters, the office of assessor, clerk of district court, coroner, district attorney, and sheriff shall be completed and made available for public inspection as provided for in R.S. [39:1308](#) no later than 15 days prior to the beginning of each fiscal year.

Q.29. Where should the proposed budget document be available for public inspection?

R.S. 39:1308

A.29. The proposed budget of a political subdivision shall be available for public inspection at the following locations:

- (1) **Municipalities**: at the office of the mayor or municipal governing authority;
- (2) **School boards**: at the school board office;
- (3) **Special districts**: at the office of the governing authority of the special district;
- (4) **All other political subdivisions**: at the office of the individual political subdivision;
and
- (5) **Elected public officials who have no board**, i.e. sheriffs: at the primary office of the elected public official.

If a political subdivision is located within the boundaries of more than one parish, the proposed budget shall be available at the office of the parish governing authority of both parishes.

Q.30. When must the public be afforded an opportunity to participate in the budget process?

R.S. 39:1307

A.30. Before adopting a proposed budget, political subdivisions with total proposed expenditures of \$500,000 or more from the general fund and any special revenue funds in a fiscal year or similar budgetary period must provide the public with an opportunity to participate in the budgetary process above those required by the open meetings law. See **Q.17** and **Q.31**.

Political subdivisions that propose to spend less than \$500,000 from the general fund or any special revenue fund in a fiscal year (or similar budgetary period) do not have to comply with the advertisement and public hearing requirements of R.S. 39:1307. However, all other public participation [rules](#) apply -- including that the adoption of the budget and any amendments must occur in an open meeting and that the opportunity for inspection be afforded to the public. See, **Q.18**.

Q.31. To facilitate public participation for budgets which propose expenditure of \$500,000 or more, what notice, publication and public hearing requirements must be met by political subdivisions, elected officials, and school boards?

R.S. 39:1307

A.31. The required notice, publication and public hearing requirements for proposed budgets which propose expenditure of \$500,000 or greater are generally the same for political subdivisions and elected officials. In general, political subdivisions and elected officials

shall publish a notice that states that the proposed budget is available for public inspection and explains when the public hearing will occur. School boards have the same requirement, but the notice is subject to different time periods.

Notice Requirements:

The notice published in the [official journal](#) shall state that:

- the proposed budget is available for public inspection;
- a public hearing on the proposed budget shall be held; and
- the date, time, and place of the hearing.

Publication Requirements:

The notice shall be published at least 10 days prior to the date of the first public hearing.

Where applicable, publication shall be in the official journal of the political subdivision. For political subdivisions that are not required to have an official journal, publication shall be in the official journal of the governing authority of the parish in which the political subdivision is located. If the political subdivision is located within the boundaries of more than one parish, publication shall be in the official journal of the governing authority of both parishes.

Public Hearing Requirements:

The public hearing for political subdivisions and elected officials shall occur no sooner than 10 days after publication of the notice. Revised Statute [17:88\(A\) requires](#) the public hearing for school boards to occur prior to the September 15th deadline for budget adoption.

Political subdivisions that propose to spend less than \$500,000 from the general fund or any special revenue fund in a fiscal year (or similar budgetary period) do not have to comply with the advertisement and public hearing requirements of R.S. 39:1307. However, all other public participation [rules](#) apply -- including that the adoption of the budget and any amendments must occur in an open meeting and that the opportunity for inspection be afforded to the public. See, [Q.18](#).

Q.32. What is the official journal?

A.32. The LGBA requires that certain information be published in a political subdivision's official journal. The official journal is typically the publication with the broadest circulation for the parish that has existed for a certain amount of time. "Official journal" is not defined in the LGBA, but is defined in other statutes. Revised Statute 43:140, et seq. provides for the official journal for parishes, municipalities, and school boards, and R.S. 43:171, et seq. for the official journal of other political subdivisions. For purposes of the LGBA notice requirements, if the political subdivision is not required to have an official journal, publication shall be in the official journal of the governing authority of

the parish where political subdivision is located; where political subdivision is located within boundaries of more than one parish, then publication shall be in the official journal of the governing authority of each parish.

Q.33. How many public hearings must occur prior to consideration for adoption of budgets which propose expenditure of \$500,000 or more?

R.S. 39:1307

A.33. No proposed budget of a political subdivision or elected official, which proposes expenditure of \$500,000 or more, shall be considered for adoption or otherwise finalized until at least one (1) public hearing has been conducted on the proposal. One or more political subdivisions may conduct joint public hearings.

Political subdivisions that propose to spend less than \$500,000 from the general fund or any special revenue fund in a fiscal year (or similar budgetary period) do not have to comply with the advertisement and public hearing requirements of R.S. 39:1307. However, all other public participation [rules](#) apply -- including that the adoption of the budget and any amendments must occur in an open meeting and that the opportunity for inspection be afforded to the public. See, [Q.19](#).

Q.34. How does a political subdivision certify that the notice process has been completed?

R.S. 39:1307

A.34. The political subdivision shall publish a notice in the official journal that certifies that all required action has taken place. This “certification notice” must be completed in the same manner that is required for notice related to the proposed budget and public hearing. Certification may not occur until after completion of the budgeting process. An example of the certification language is:

This is to certify that the (Public Entity) has complied with Louisiana Revised Statute 39:1307 relative to public participation in the budget process for the Year Ended (*Fiscal Year End Date*). Notice of availability for public inspection and public hearing was held in compliance with applicable statute. (*Public Official/Administrator Name*) (*Date*)

[Adoption of Budget](#)

Q.35. Must the budget be adopted in an open meeting?

R.S. 39:1309

A.35. The answer depends on whether an entity or an elected official is adopting the budget. All entities with a governing board must adopt the budget in an open meeting. Elected officials do not adopt the budget in an open meeting because there is no governing authority that votes. R.S. [39:1309](#) states: “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 except for school boards and parishes.” The requirements for political subdivisions, parishes, school boards and elected officials are noted below:

Political Subdivisions:

Must adopt the budget, including the adoption of any amendments* to the proposed budget, in an open meeting before the end of the prior fiscal year.

* [R.S. 39:1305\(F\)](#), which authorizes a governing authority to make amendments to the proposed budget prior to adoption, limits the power of Lawrason Act municipalities to amending the proposed budget only to the extent that the amendments do not substantially change the proposed budget. See [Act 96 of the 2019 Regular Session](#).

Parishes:

Must adopt the budget, including the adoption of any amendments to the proposed budget, in an open meeting prior to the 30th day of the new fiscal year.

School boards:

Must adopt the budget, including the adoption of any amendments to the proposed budget, in an open meeting by September 15th of fiscal year as required by R.S. [17:88\(A\)](#). In addition, the budget must be sent to the State Superintendent by September 30th for approval as required by R.S. [17:88\(C\)](#).

Elected Officials:

No open meeting is required for an elected official to adopt the budget. Note, however, if the elected official's proposed budget proposes expenditures of \$500,000 or more, the elected official is still subject to the requirement of holding a public hearing prior to adoption pursuant to R.S. 39:1307. (See, [Q.33](#)).

[Q.36.](#) What information must be included in the adopted budget? [R.S. 39:1309](#)

A.36. The adopted budget shall contain the same information that is required for the proposed budget plus any amendments* adopted prior to final adoption by the governing authority.

* [R.S. 39:1305\(F\)](#), which authorizes a governing authority to make amendments to the proposed budget prior to adoption, limits the power of Lawrason Act municipalities to amending the proposed budget only to the extent that the amendments do not substantially change the proposed budget. See [Act 96 of the 2019 Regular Session](#).

[Q.37.](#) How does a Lawrason Act municipality adopt and amend budgets?

A.37. Any act of the board of a Lawrason Act municipality that would provide for the appropriation of funds, the incurrence of debt, or the issuance of bonds or other evidence of indebtedness shall be by ordinance. However, the board may, by resolution adopted by the affirmative vote of a majority of the members of the board, require the expenditure of funds previously appropriated. The resolution shall be presented to the mayor within

three days after its adoption for approval or disapproval in accordance with and subject to the rules and requirements of R.S. [33:406\(C\)](#). See R.S. [33:406A\(3\)](#).

An ordinance is a written instrument that is enacted after certain delay periods occur. The Lawrason Act provides rules for adoption of ordinances by municipalities subject to it,

R.S. [33:406](#). Enactment of an “other legal instrument” probably includes a formal motion presented at a public meeting.

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 of the political subdivision.

R.S. [39:1305\(F\)](#)*

* [R.S. 39:1305\(F\)](#), which authorizes a governing authority to make amendments to the proposed budget prior to adoption, limits the power of Lawrason Act municipalities to amending the proposed budget only to the extent that the amendments do not substantially change the proposed budget. See [Act 96 of the 2019 Regular Session](#).

Amendments to the adopted budget must be done through ordinance and in accordance with the provisions of R.S. 39:1310.

Q.38. Who retains a certified copy of the adopted budget and adoption document?

R.S. [39:1309](#)

A.38. Upon adoption, the chief executive or administrative officer shall retain a certified copy of the adopted budget and adoption instrument. For example, the school superintendent must retain a copy of the school board’s budget at the main office of the school district.

Amendment

Q.39. Do the provisions for amending the budget apply to amendments to the proposed budget?

R.S. [39:1310](#)

A.39. No. The provisions of R.S. 39:1310 do not apply to amendments of the proposed budget prior to final adoption. The provisions of R.S. 39:1310 apply only to amendments to the adopted 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 of the political subdivision. R.S. 39:1305(F)*

* [R.S. 39:1305\(F\)](#), which authorizes a governing authority to make amendments to the proposed budget prior to adoption, limits the power of Lawrason Act municipalities to amending the proposed budget only to the extent that the amendments do not substantially change the proposed budget. See [Act 96 of the 2019 Regular Session](#).

Q.40. What is the purpose for mandatory budget amendments in the LGBA?

R.S. 39:1302

- A.40.** The budget amendment process in the LGBA addresses the respective roles of an entity exercising the legislative function for the political subdivision (defined in R.S.39:1302; (See Q.7.) and the chief officer exercising the executive functions for the political subdivision. The LGBA also ensures that political subdivisions do not expend more funds than they have available. The law requires the budget to be balanced.

The governing authority of a political subdivision exercises the legislative powers of the political subdivision. One of these legislative powers includes the power to appropriate funds. Governing authorities whose revenues exceed expectations must budget these funds before they may spend them. See AG Op. No. 10-0232, in which the AG opined that in order for FEMA funds to be spent, they had to first be budgeted:

FEMA funds are not treated differently from other revenue for budgeting purposes and should be included in a political subdivision's annual budget even if only shown as an estimated amount. If the receipt of FEMA funds after the budget has been adopted results in a political subdivision having a change in operations, the budget must be amended to reflect receipt of the funds.

Funds of a political subdivision must be appropriated before they may be expended; therefore, any additional revenue must be appropriated through the budget amendment process before it may be spent.

In addition to addressing concerns regarding additional revenues, governing authorities that do not meet revenue expectations must reduce expenditures, because it is unlawful to pass a deficit budget in Louisiana. (R.S. 39:1305E. - *The total of proposed expenditures shall not exceed the total of estimated funds available for the ensuing fiscal year.*)

As a practical matter, all governing authorities must amend their budgets whenever revenues and expenditures rise or fall after the budget has been adopted. Revenues not budgeted cannot be spent, and expenditures greater than available funds must be reduced to avoid creating a deficit at the end of the fiscal year.

Q.41. How is the adopted budget amended?

R.S. 39:1310

- A.41.** Most governing authorities make budget amendments through resolution or ordinance that is introduced and adopted in a public meeting. A resolution is sufficient if the entity is not a Lawrason act entity, and the charter does not require an ordinance.

Lawrason Act municipalities must adopt amendments by ordinance according to R.S. 33: 406(A)(3).

Elected officials make budget amendments by publishing them in their official journal.

To reflect a change, a governing authority is required to adopt a budget amendment in an open meeting.

Entities may not adopt budget amendments that propose expenditures that exceed the total of estimated funds available for the fiscal year.

Q.42. When must governing authorities amend their adopted budgets?

R.S. 39:1310

A.42. In order to understand when governing authorities must amend their adopted budget, one must keep in mind the role that budget amendments play in regard to the overall budget process and the functions of the governing authority within this process.

R.S. 39:1310 states that governing authorities shall amend the (adopted) budget if either (1) they have received notification pursuant to R.S. 39:1311; or (2) there has been a change in operations upon which the original adopted budget was developed.

The meaning of “a change in operations” is ambiguous. For additional guidance on this topic, (See Q.46).

The mandated written notifications in R.S. 39:1311 (A) and (B) are required only for a special revenue fund or a general fund with anticipated expenditures that equal or exceed \$500,000. However, the requirement for a political subdivision to amend their budget due to a 5% or greater variance in expenses or anticipated revenues still applies, even in cases of budgets with anticipated expenditures of less than \$500,000. Further, only the written notification of Paragraph (A)(2) is required for special revenue funds whose revenues are expenditure driven. Paragraph (A)(2) mandates a written notice be provided when the total actual expenditures and other uses plus projected expenditures and other uses for the remainder of the year, within a fund, are exceeding the total budgeted expenditures and other uses by five percent or more.

It is the opinion of the Legislative Auditor that, when viewing the requirements of the LGBA as a whole and the role of budget amendments within the budgeting process of political subdivisions, a budget amendment is required whenever there is a 5% variance in revenue or expenditures, even in those circumstances when the proposed revenue and expenditures in the general fund or special revenue fund are under \$500,000. Only the written notification requirements are exempted in cases of special revenue and general funds with anticipated expenditures of less than \$500,000.

Q.43. What revenue, expenditure, and fund balance variances require a chief executive officer with a budget of \$500,000 or more to alert the governing authority in writing? **R.S. 39:1311**

A.43. The chief executive or administrative officer of a political subdivision subject to public participation with a budget of \$500,000 or more must advise the governing authority or independently elected official in a **written notice** when:

(1) Total revenue and other sources plus projected revenue and other sources for the remainder of the year, within a fund, are failing to meet total budgeted revenues and other sources by 5% or more.

(2) Total actual expenditures and other uses plus projected expenditures and other uses for the remainder of the year, within a fund, are exceeding the total budgeted expenditures and other uses by 5% or more.

(3) Actual beginning fund balance, within a fund, fails to meet estimated beginning fund balance by 5% or more and fund balance is being used to fund current year expenditures.

- The written notice shall be statutorily required only for a special revenue fund with anticipated expenditures of \$500,000 or more.
- Only the notice required in paragraph (2) above shall be required for special revenue funds that are expenditure driven.
- The adopted budget and any amendments constitute the authority of the political subdivision to incur liabilities and to authorize expenditures.
- The elected chief of police shall advise the governing authority in writing when total actual expenditures plus projected expenditures for the rest of the year exceed the total budgeted expenditures by 5% or more, and the chief shall make recommendations in writing for responsive action.

Even in situations in which R.S. 39:1311 does not require written notice, a political subdivision still must amend its adopted budget whenever anticipated revenues or expenditures vary by 5% or more. The LGBA sets these minimum requirements, but a political subdivision itself may provide for more stringent requirements by mandating budget amendments when anticipated revenue or expenditures vary by less than 5%.

Q.44. Must the governing authority adopt a budget amendment if there is a 5% variance in revenues or expenditures or beginning fund balance?

R.S. 39:1311

A.44. Yes. The governing authority must adopt a budget amendment if there is a 5% or greater shortage in revenue or a 5% or greater overage in expenditures or if there is a 5% or greater variance in the actual fund balance at the beginning of the year.

Although case law is not consistent regarding permissive instances of amendments, both case law and statutes clearly require that under R.S. 39:1310 an adopted budget must be amended whenever notification is received pursuant to R.S. [39:1311](#), or whenever there has been a change in operations upon which the original adopted budget was developed.

The Legislative Auditor interprets the provisions of the LGBA, including R.S. [39:1310](#) and R.S. [39:1311](#), to provide for a mandatory budget amendment for those political subdivisions with total proposed expenditures of less than \$500,000 when a 5% variance occurs between actual and budgeted revenues or expenditures, or when actual beginning fund balance fails to meet estimated beginning fund balance by 5% or more.

The LGBA provides minimum requirements only if and when it does not conflict with the terms of the home rule charter or plan of government*. The political subdivision itself may provide for more stringent requirements by mandating budget amendments when anticipated revenue or expenditures vary by less than 5%.

* See [R.S. 39:1302](#).

Q.45. Do the written notification requirements provided in R.S. 39:1311 apply to special revenue funds of less than \$500,000?

R.S. 39:1311

A.45. No. In those political subdivisions with total proposed expenditures of less than \$500,000, written notice is not required when a 5% variance occurs between actual and budgeted revenues or expenditures, or when actual beginning fund balance fails to meet estimated beginning fund balance by 5% or more. A budget amendment is the only requirement.

The written notification is statutorily required only for **special revenue funds** with anticipated expenditures that equal or exceed \$500,000. (Paragraph B). Furthermore, only the written notification of R.S. [39:1311\(A\)\(2\)](#) shall be required for **special revenue funds** whose revenues are expenditure driven. Once the governing authority receives the written notice, then the governing authority amends the budget pursuant to R.S. [39:1310](#).

Q.46. What circumstance is considered a “change in operations” that triggers a budget amendment?

R.S. 39:1310

A.46. The LGBA, pursuant to R.S. 39:1310, provides two mandatory instances in which the adopted budget must be amended: (1) when the governing authority has received notification pursuant to R.S. 39:1311, or (2) when there has been a change in operations upon which the originally adopted budget was developed.

The LGBA does not define “change in operations” in R.S. [39:1310](#). Neither the courts nor the AG has provided much interpretation of this phrase. One court held that an economist’s testimony regarding various revenue-producing elements of an adopted budget was not sufficient to trigger a “change in operations” that would require a budget amendment because the information was too speculative. The court also suggested that

“...curtailing, eliminating or adding a particular service for the people would meet the criteria, as well as adopting additional revenue producing measures to permit the enhancement of services for the people.” See *Tardo v. Lafourche Parish Council*, 476 So.2d 997, (La.App. 1 Cir.,1985).

The AG stated in **AG Op. No. 86-0214** and **AG Op. No. 84-0488** that “... the transfer of budgeted funds or funds designated for a specific purpose within a department from one program or function to another program or function constitutes a change in operations upon which the original adopted budget was developed.” Such a change must be adopted in an open meeting by the governing authority.

Additionally, it may be argued that a 5% variance is a change in operations that requires a budget amendment.

Q.47. When must independently elected parish officials amend budgets?

R.S. 39:1310A

A.47. An independently elected parish official must amend the adopted budget upon receipt of notification pursuant to R.S. 39:1311(A), or when there has been a change in operations upon which the original adopted budget was developed. The independently elected official must adopt a budget amendment and publish the amendment in the official journal as described by R.S. 39:1307(B).

Q.48. Do any special notification requirements exist for elected chiefs of police?

R.S. 39:1311

A.48. Yes. The authorities of elected and appointed chiefs of police are different. An elected Chief of Police of a Lawrason Act municipality has inherent authority to control police department funds on a day-to-day operational basis subject to funds budgeted and appropriated pursuant to municipal ordinance. **AG Op. No. 12-0195** and **AG Op. No. 93-0666**. An elected municipal chief of police shall advise the municipal governing authority in writing when total actual expenditures plus projected expenditures for the remainder of the year exceed the total budgeted expenditures within the police department by 5 % or more, and shall make recommendations in writing to the governing authority for responsive action.

GENERAL

Q.49. May an entity require more stringent rules than the LGBA?

A.49. Yes. The requirements of the LGBA shall be considered minimal requirements, to the degree that they do not conflict with the terms of a home rule charter or plan of government. A political subdivision may, however, require through ordinance or home rule charter or plan of government provisions even more stringent financial planning and budget practices.

Q.50. Who may, on behalf of a political subdivision, incur liabilities and authorize expenditures from the respective budgeted funds during the fiscal year?

R.S. [39:1311](#)

A.50. Only the chief executive or administrative officers of the political subdivision are authorized through the adopted budget and any adopted amendments to incur liabilities and authorize expenditures from the respective budgeted funds during the fiscal year.

Q.51. Does the LGBA limit an entity's ability to contract?

R.S. [39:1311](#)

A.51. The LGBA does not prevent the making of contracts for governmental services or for the capital outlay for a period exceeding one year if such contracts are allowed otherwise by law. These contracts shall be executory only for the amounts agreed to be paid for services to be rendered in succeeding years.

Q.52. What happens if the political subdivision does not appropriate funds/adopt a budget in each fiscal year?

R.S. [39:1312](#)

A.52. If, at the end of any fiscal year, the appropriations necessary for the support of the political subdivision for the ensuing fiscal year have not been made, then 50% of the amounts appropriated in the appropriation ordinance or resolution for the last validly passed budget year shall be deemed re-appropriated for the several objects and purposes specified in the ordinance or resolution. This 50% limitation will continue until a new budget is approved.

Political subdivisions operating under a Home-Rule Charter should also consult their charter's provisions. See [AG Op. No. 14-0024](#).

Q.53. Which certified documents must a chief executive or administrative officer keep and where must the documents be located?

R.S. [39:1313](#)

A.53. The chief executive or administrative officer shall retain and file certified copies of the adopted budget, budget adoption instrument, budget amendments, and copies of supporting schedules and correspondence related to the budget at the domicile of the governing authority.

Q.54. How do emergencies affect the expenditure of funds?

R.S. [39:1314](#)

A.54. Nothing shall prohibit the expenditure of funds in cases of emergency. The LGBA defines emergency to mean "...an unforeseen event bringing with it destruction or injury of life or property or the imminent threat of such destruction or injury." This strict definition of an emergency is intended to prevent poor planning from being characterized as an emergency.

Q.55. What are the penalties for violating the LGBA?

R.S. [39:1315](#)

A.55. The fiduciary responsibilities of a public official or officer charged with the responsibility of planning, adopting, amending, and implementing the budget are significant and serious. Any public official who knowingly or intentionally adopts, amends, and implements an adopted budget wherein the expenditures exceed the funds available may be found guilty of malfeasance of office and subject to the penalties contained within that criminal statute ([R.S. 14:134](#))

Q.56. What actions may an individual pursue to force compliance with the LGBA?

R.S. [39:1315](#)

A.56. Any person may file a suit in a court of competent jurisdiction for the parish in which the political subdivision is domiciled for mandamus, injunctive, or declaratory relief to require compliance with the LGBA.

Q.57. May a local government entity budget for less than a full fiscal year?

A.57. No, the governing authority may not intentionally provide less than a full fiscal year of funding for any line items in the budget. [AG Op. No. 12-0244](#)

[Helpful Links](#)

[LGBA Questions & Answers](#)

[Summary of how the LGBA applies to Political Subdivisions, Elected Officials and School Boards](#)

[Sample Budget Message](#)

[Sample Side by Side Comparison](#)

[Sample Budget Notice of Hearing](#)

[Sample Certification of Public Participation](#)

[Sample Budget Ordinance](#)

[Sample Budget Resolution](#)

[Sample Elected Official Letter](#)

[Sample Budget Amendment Ordinance](#)

[Sample 5% Variance Notice](#)

[Attorney General \(AG\) Opinions](#)

Note: The following AG opinions are subject- and fact-specific and should be used as information only. They are not a substitute for either independent legal research or for obtaining an opinion from the AG on a specific matter.

[AG Op. No. 16-0051](#) – The Parish President of a home rule charter parish does not have the discretion to forestall the expenditure of properly appropriated funds for legislatively-directed ends aside from obligations to comply with public bidding processes and any other legal requirements.

AG Op. No. 15-0080 - A 501(c)3 Volunteer Fire Department (VFD) is not a public entity. A VFD performing a governmental function and receiving public funds is considered a public body subject to the Louisiana Public Records Law (La. R.S. 44:1 et seq.), but only to the extent that its records are connected to the receipt or expenditure of public funds. Further, a VFD is considered a quasi-public entity subject to the Audit Law (La. R.S. 24:511 et seq.), if it meets at least one of the elements enumerated in La. R.S. 24:513(A)(1)(b)(i)-(v). However, a VFD is not subject to the Public Bid Law (La. R.S. 38:2211 et seq.), Open Meetings Law (La. R.S. 42:1 et seq.), or the Local Government Budget Act (La.R.S. 39:1301 et seq.).

AG Op. No. 14-0085 - Signing contracts on behalf of the parish is an executive function; therefore, the Council may not enter into a contract on behalf of the parish without the parish president's signature unless specifically authorized to do so by the Charter.

AG Op. No. 14-0013 – Motion adopted by police jury to authorize transfer of funds to fund project was not a valid appropriation under the Local Government Budget Act because the funds were not part of a budget or amended budget which was approved in accord with the LGBA.

AG Op. No. 12-0244 – The governing authority may amend the proposed budget prior to voting to adopt or reject that budget. However, the governing authority may not amend a line item in the proposed budget to intentionally provide less than a full fiscal year of funding for a line item in the budget.

AG Op. No. 12-0074 – Enterprise funds must either be approved and appropriated through the annual budget process or pursuant to R.S. 33:462.

AG Op. No. 12-0048 - School boards must comply with the requirements of both R.S. 39:1305(C)(2)(a) and (b). School Boards must use the side by side comparison.

AG Op. No. 11-0197 - Plaquemines Parish Government is authorized to approve a revenue line item by parish ordinance thereby amending its budget to appropriate funding to the Misdemeanor Probation Department if the parish government satisfies the requirements of its Charter for Self-Government and complies with the Louisiana Local Government Budget Act. The Louisiana Legislative Auditor would provide the best guidance on how to properly manage any surplus funds. According to the Plaquemines Parish Charter, balances of the Parish's funds with the exception of sinking funds, reserve funds, or other dedicated funds not yet retired, may be transferred by the Parish Council to the general fund of the Parish, unless otherwise prohibited by law.

AG Op. No. 12-0039 - The Parish President has the legal authority to sign checks on behalf of Livingston Parish. Neither the Finance Director, who has not been confirmed by the Livingston Parish Council, nor the Chairman of the Finance Committee of the Council, has the authority to sign checks on behalf of Livingston Parish.

[AG Op. No. 11-0228](#) - Pursuant to the Local Government Budget Act and, specifically La. R.S. 39:1305, the mayor of a Lawrason Act municipality may spend only those general and special revenue funds that have been approved by the Board of Aldermen, but such spending limitations do not apply to discretionary enterprise funds. [In **[AG Op. No. 12-0074](#)**, the AG clarifies AG Op. No. 11-0228, stating that a mayor of a Lawrason Act municipality must abide by the Lawrason Act, the Local Government Budget Act and the Public Records Act. In clarification of **AG Op. No. 11-0228**, for enterprise funds to be spent by a Lawrason Act municipality, the enterprise funds must be either approved and appropriated through their annual budget process or pursuant to La. R.S. 33:462.]

[AG Op. No. 10-0232](#) - FEMA funds are not treated differently from other revenue for budgeting purposes and should be included in a political subdivision's annual budget even if only shown as an estimated amount. If the receipt of FEMA funds after the budget has been adopted results in a political subdivision having a change in operations, the budget must be amended to reflect receipt of the funds.

[AG Op. No. 08-0236](#) - Discussing the Parish Transportation Act, the AG states that the LGBA mandates that all proposed expenditures are approved by the council as a whole as part of the overall budgetary process. (Published January 22, 2010)

Salaries/Operating Budget

[AG Op. No. 12-0013](#) – If a municipality fails to adopt a general fund budget, the Mayor has no authority to incur general fund liabilities or authorize expenditures during the fiscal year beyond that authorized by R.S. 39:1312 or R.S. 39:1314.

[AG Op. No. 12-0133](#) – Parish Council can provide approval for Parish President to contract for professional services through budgeting and appropriation of funds under the LGBA or from a separate approval request.

[AG Op. No. 09-0187](#) – A mayor cannot unilaterally refuse to pay a budgeted salary previously and properly approved by the mayor and the board and if appropriations have been made.

[AG Op. No. 07-0216](#) - Salaries must be budgeted in accord with LGBA.

AG Op. No. 04-0280 - A city council or police jury must budget necessary funds to allow the Registrar of Voters to discharge his duties.

AG Op. No. 02-0276 - It is appropriate for the mayor to determine if a pay raise is merited as to employees who are not deemed to be municipal officers; however, the money for the raise must be budgeted in accordance with the requirements of the Local Government Budget Act, La. R.S. [39:1301](#) et seq.

AG Op. No. 01-0325 - Contract signed by a parish president when no funds had been budgeted or appropriated for such a contract is not valid. Also see **[AG Op. No. 14-0113](#)**.

AG Op. No. 01-0274 - Section 6-04 of the City of Baker’s Charter, which states that if Baker’s city council fails to adopt a budget by the appropriate date set forth in the city’s charter, it shall be presumed to have adopted the budget submitted by the mayor, is constitutional. Also see [AG Op. No. 14-0024](#). **This opinion does not apply to Lawrason Act municipalities.**

Budget Amendments

[AG Op. No. 06-0024](#) - A city council has authority to amend its (adopted) budget to change the travel allowed for its employees through an ordinance or “proposed budget adoption instrument.”

An economist’s testimony regarding various revenue-producing elements of an adopted budget was not sufficient to trigger a “change in operations” that would allow a budget amendment because the information was too speculative. The court also suggested that “...curtailing, eliminating or adding a particular service for the people would meet the criteria, as well as adopting additional revenue producing measures to permit the enhancement of services for the people. See *Tardo v. Lafourche Parish Council*, 476 So.2d 997, (La.App. 1 Cir.,1985). *Tardo v. Lafourche Parish Council*, 476 So.2d 997, (La.App. 1 Cir.,1985).

Courts

[AG Op. No. 11-0266A](#), **AG Op. No. 04-0391**; **AG Op. No. 03-0300**; **AG Op. No. 93-0690** - The LGBA applies to the courts, but only as to judicial expense funds. Thus, judges must prepare a budget document related to those funds.

Home Rule Charter

[AG Op. No. 14-0024](#) – Charter provision requiring that budget proposed by parish president would be considered adopted if council failed to timely adopt a budget did not conflict with the Local Government Budget Act and was applicable.

[AG Op. No. 09-0152](#) – Addresses various questions related to the budget adoption process.

[AG Op. No. 05-0083](#) - This opinion examines several questions including the necessity of an ordinance to employ legal counsel.

AG Op. No. 02-0179 - Examines situation where a parish council failed to adopt a new budget.

School Boards

[AG Op. No. 05-0081](#) - The AG examined the impact of delinquent contributions to the Office of Group Benefits under the LGBA.

Penalties

AG Op. No. 05-0031 - The AG examined the penalty provisions of the LGBA in response to questions relating to a town council.

AG Op. No. 00-0451 - The notification requirements should not be “...misinterpreted to afford a chief of police a five-percent margin of error if he in fact intentionally violates the law...”

Liabilities and Expenditures

AG Op. No. 03-0355 - The LGBA authorizes the chief executive and not the parish council to incur liabilities and authorize expenditures from budgeted funds.

Payment of Bills

AG Op. No. 09-0132 – A mayor cannot unilaterally hire and pay an attorney to defend him at the cost of the municipality without the concurrence of the board of aldermen. If the funds have already been appropriated for legal expenses in the budget and the mayor’s actions in the lawsuit arise out of his duties, then the mayor could authorize expenditures from the budgeted funds under authority given to him under the LGBA.

AG Op. No. 00-0205 - The mayor is also able to pay specific bills without the approval of the board of aldermen as long as the bills fall within a category in the approved budget and proper appropriations have been made. Only after the budget is amended can the mayor pay additional bills of the municipality.

Index of LGBA Statutes

R.S. 39: 1301	Short title
R.S. 39: 1302	Definitions
R.S. 39: 1303	Legislative intent
R.S. 39: 1304	Uniform chart of accounts
R.S. 39: 1305	Budget preparation
R.S. 39: 1306	Completion and submission of the proposed budget
R.S. 39: 1307	Public participation
R.S. 39: 1308	Inspection of the proposed budget
R.S. 39: 1309	Adoption
R.S. 39: 1310	Amending the budget
R.S. 39: 1311	Budgetary authority and control
R.S. 39: 1312	Governing authority's failure to make appropriation
R.S. 39: 1313	Budget filing
R.S. 39: 1314	Emergencies
R.S. 39: 1315	Violations