

# SETTING MILLAGE RATES



**Updated March 15, 2022**

UPDATE:

On Monday, March 14, 2022, during his State of the State address, Governor John Bel Edwards announced that he would not be extending the emergency proclamation related to COVID-19. The current order expires Wednesday, March 16, 2022.

As noted in the Setting Millage Rates book updated in February, 2022, R.S. 42:17.1 provides an exception to the Open Meetings Law to allow taxing bodies to meet via electronic means when there is a gubernatorially issued emergency proclamation in place. Now that the COVID-19 emergency proclamation will be allowed to expire; the current exception is no longer applicable.

3/15/2022

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## DEFINITIONS

### **Actual Levy a/k/a Authorized Rate**

The millage rate levied and collected in a particular tax year.

### **Ad Valorem**

According to value

Taxes are assessed a dollar amount according to property value.

### **Adjusted Millage Rate**

The actual levy a/k/a authorized rate levied the year prior to reassessment as adjusted by reassessment.

### **Adjusted Maximum Millage**

The adjusted maximum millage is the maximum authorized millage as adjusted by reassessment.

If the actual levy and the maximum authorized levy are different, both rates are adjusted at reassessment.

Any rate up to and including the adjusted maximum millage may be levied without going through the roll forward process.

### **Maximum Authorized Levy**

The maximum millage rate that may be levied in a tax year that:

- The millage rate approved by the voters before reassessment has occurred.
- The millage rate as adjusted by reassessment (if a decrease in property value was the result at reassessment).
- The "prior's year's maximum" after reassessment (if an increase in property value was the result at reassessment).
- The "prior year's maximum" will only be available until the next reassessment occurs.

### **Mill**

1/10 of one cent (or \$1.00 per one thousands of assessed value).

## **Procès Verbal**

A detailed, authenticated written report of a proceeding or election.

## **Reassessment (a/k/a reappraisal)**

Reassessment is the process mandated by the Louisiana Constitution to revalue all property subject to taxation.

Reassessment adjusts the millage rate upward or downward depending on property value.

- It is to keep the total amount of ad valorem taxes collected by a taxing authority the same as the preceding year.
- The adjusted millage rates as fixed in the reassessment shall remain in effect unless changed by law.

Bond millages are not affected by reassessment.

## **Roll Forward**

Increasing the millage rate after reassessment from the adjusted maximum millage rate to a rate not in excess of the “prior year’s maximum.”

Roll forward only occurs when the taxable property value increases at reassessment.

## LAWS

### Art. VII, §18(F) of the La Const.

Requires all property subject to taxation to be reappraised and valued at least once every four (4) years.

### Art. VII, § 23(B)(C) and (D) of the La Const.

- (B) Mandates the adjustment of ad valorem taxes either upward or downward depending on property values – also known as reassessment.
- (C) Authorizes increases in the millage rates after reassessment but not in excess of the prior year's maximum millage – also known as rolling forward.
- (D) Reassessment does not apply to millage rates levied for the payment of general obligation bonds.

### R.S. 47:1705(A)

Requires all tax recipient agencies of ad valorem taxes of every parish, excluding Orleans, to adopt an ordinance or resolution each year with the millage rate to be applied to the assessed value. The authorizing ordinances or resolutions are required to be furnished to the assessor and the legislative auditor no later than June 1 of each year and no later than September 1 of each year for St Charles Parish only.

### R.S. 11:1481(1)(a)(ii)(aa)

Requires all tax recipient agencies of ad valorem taxes of every parish to adopt an ordinance or resolution each year with the millage rate to be applied to the assessed value. The authorizing ordinances or resolutions are required to be furnished to the assessor and the legislative auditor no later than June 1 of each year.

### R.S. 47:1705(B)

Authorizes increases in millage rates after reassessment to millage rates not exceeding the prior year's maximum and sets forth additional notice requirements.

### R.S. 47:1705.1(A)

The provisions of this Section shall apply to any parish with a population between two hundred thirty thousand and two hundred fifty thousand according to the most recent federal decennial census.

**R.S. 47:1705.1(B)**

Requires public hearings and meetings for all non-elected taxing authorities which are subject to the provisions of R.S. 47:1705.1(A) with respect to increases in millage rates without voter approval, to be held at the usual meeting location of the parish governing authority. This includes meetings at which a vote is to be taken on a proposed millage rate increase for the ensuing year above the rate levied for that millage in the immediately preceding year. The parish governing authority is in charge of scheduling dates and times for such public hearings and public meetings.

**R.S. 47:1993(A)(4)**

Municipalities that prepare their own tax rolls and assessment lists, upon approval of these rolls by the parish governing authorities as boards of reviewers, shall prepare and submit to the Louisiana Tax Commission and the legislative auditor its millage rates and assessed valuation of property.

**R.S. 42:11 - 28 [R.S. 42:11, et seq.]**

Every meeting of any public body shall be open to the public unless closed pursuant to [R.S. 42:16](#), [R.S. 42:17](#), or [R.S. 42:18](#).

**R.S. 42:17.1**

Provides an exception to allow for public meetings to occur via teleconference or video conference during a gubernatorially declared disaster or emergency.

**R.S. 42:20(A)**

Requires all public bodies to keep written minutes of all open meetings.

**R.S. 42:20(B)**

Enacted by Act 628 of the 2014 Regular Session requires the public body to post a copy of the minutes on their website, if they have one, and maintain the copy of those minutes on the website for at least three months after posting.

**R.S. 42:23(A)**

Amended and reenacted by Act 363 of the 2013 Regular Session requires any nonelected board or commission that has the authority to levy a tax to video or audio record, film, or broadcast live all proceedings in a public meeting.

**R.S. 44:36(F)**

Amended and reenacted by 363 of the 2013 Regular Session requires all existing records and records accumulated pursuant to [R.S. 42:23](#) to be preserved or maintained for a period of at least 2 years from the date on which the public record was made.

**R.S. 18:1285**

Amended by Act 283 of the 2012 Regular Session provides that notice of an election be given. If the notice is relative to an election which affects ad valorem taxes, the notice shall also state that a portion of the monies collected shall be remitted to certain state and statewide retirement systems in the manner required by the law.

**R.S. 18:1293**

Amended by Act 283 of the 2012 Regular Session provides that the governing authority ordering the election shall preserve a procès verbal. If the election affects ad valorem taxes, the governing authority shall include a copy of the notice of election and proof of publication of the notice in the procès verbal. The governing authority shall forward a copy of the procès verbal to the Secretary of State, who shall record it.

**Art. VI, § 33(B) of the La Const.**

The full faith and credit of a political subdivision is hereby pledged to the payment of general obligation bonds issued by it under this constitution or the statute or proceedings pursuant to which they are issued. The governing authority of the issuing political subdivision shall levy and collect or cause to be levied and collected on all taxable property in the political subdivision ad valorem taxes sufficient to pay principal and interest and redemption premiums, if any, on such bonds as they mature.

**R.S. 24:513(O)**

Requires the legislative auditor to annually review, calculate and certify the amount due to each public retirement system as provided by law. It also requires the legislative auditor to submit to each sheriff or tax collector a report setting forth the certified amounts due from each taxing recipient body to each public retirement system.

**R.S. 13:5565**

Requires each sheriff or tax collector to deduct the amount certified by the legislative auditor pursuant to [R.S. 24:513\(O\)](#) and remit that amount of money to the appropriate public retirement system as provided by law.



## ATTORNEY GENERAL OPINIONS

### **A.G. Opinion No. 89-526**

Reassessment can be done in any year to compensate for decreases in the assessed value of public service or personal property.

### **A.G. Opinion No. 06-0107**

Reassessment cannot be done to compensate for a value loss in real estate due to the transfer of property to the exempt tax roll.

Tax recipient bodies may “roll forward” if they are not at their maximum millage rate.

### **A.G. Opinion No. 93-339**

The adjusted millage rate established under Article 7 Section 23(A) of the Louisiana Constitution became the new maximum authorized millage.

“Prior year’s maximum” refers to the 1978 initial adjusted millage at reassessment a/k/a reappraisal.

### **A.G. Opinion No. 00-245 and 00-245(A)**

Taxing authority may “roll forward” in any year prior to the next reassessment. The “prior year’s maximum” is the year prior to the last reassessment.

### **A.G. Opinion No. 08-257**

A public hearing to consider an increase in ad valorem tax millage pursuant to R.S. 47:1705(B) that has been properly advertised by a taxing authority may be rescheduled to a later date without additional publications by complying with the provisions of R.S. 42:19(A)(1)(b) for rescheduled meetings of public bodies.

Effective 8/15/2009, subsequent hearings must meet the criteria in R.S. 47:1705(B)(2)(f).

### **A.G. Opinion No. 10-0030**

Provisions contained in R.S. 47:1705(B) through (D) do apply to Orleans Parish.

## OPEN MEETINGS LAW

### Art. XII, § 3 of the La Const.

“No person shall be denied the right to observe the deliberations of public bodies and examine public documents, except in cases established by law.”

Foundation for the Open Meetings Law and Public Records Law often called the “**Sunshine Laws.**”

### R.S. 42:12

The provisions of the **Open Meetings Law** shall be construed liberally in favor of public observation and participation in the deliberations and decision making of public policy.

Requires a copy of the **Open Meetings Law** to be posted by all public bodies.

### R.S. 42:13

Defines a meeting as:

To deliberate or act on a matter over which the public body has supervision, control, jurisdiction, or advisory power.

The public body or public official to receive information regarding a matter over which the public body has supervision, control, jurisdiction or advisory power.

Does not include chance meetings or social gatherings at which no vote or other action is taken, such as formal or informal polling of members; however, such gatherings should be avoided if possible.

**Defines a quorum as:**

A simple majority of the total membership of a public body

- Often incorrectly identified as 50% +1.
- Specific statutory definition of quorum for a public body can be higher or lower than the default definition.
- Vacant positions count in determining quorum.

Public bodies should be aware that violations often occur when discussions happen through a “**walking quorum.**”

### R.S. 42:14

Every meeting of a public body must be open to the public unless the law specifically provides an exception such as executive sessions under R.S. 42:16, 42:17, or 42:18.

### **When Voting Members:**

- Must be physically present and viva voce (oral or electronic machine displaying vote and identifying who cast the vote);
- May not utilize proxy voting unless the law specifically authorizes it; and
- May not use secret balloting, straw polling, and other means of circumventing a public vote.

All votes shall be recorded in the minutes, journal, or other official, written minutes of the body.

**A.G. Opinion No. 19-0022** Votes must be made *viva voce*, with a live voice, and may not be made solely by a show of hands.

**A.G. Opinion No. 14-0140** It is improper for members of a public body to use electronic devices during a public meeting for the express purpose of gathering votes from fellow council members on a matter in which the public is actively deliberating and voting.

**A.G. Opinion No. 12-0177** Discusses a public body communicating electronically as related to compliance with the Open Meetings Law, polling of members, and a “walking quorum”.

### **Public Participation/ Commenting**

Public entities shall afford a public commenting period in all meetings prior to action being taken on agenda items which require a vote.

School boards must afford a separate public commenting period prior to action on each individual agenda item.

### **R.S. 42:17.1 (SEE UPDATE ON FIRST PAGE)**

A. Notwithstanding any other provision to the contrary, a public body may conduct and its members may attend and participate in a public meeting via electronic means provided:

(1) The governor has declared a state of emergency or disaster involving a geographic area within the jurisdiction of the public body and the nature of the emergency or disaster would cause a meeting of the public body to be detrimental to the health, safety, or welfare of the public.

(2) The presiding officer of the public body certifies on the notice of the meeting that the agenda of the meeting is limited to one or more of the following:

(a) Matters that are directly related to the public body's response to the disaster or emergency and are critical to the health, safety, or welfare of the public.

(b) Matters that if they are delayed will cause curtailment of vital public services or severe economic dislocation and hardship.

(c) Matters that are critical to continuation of the business of the public body and that are not able to be postponed to a meeting held in accordance with the other provisions of the

open meetings law due to a legal requirement or other deadline that cannot be postponed or delayed by the public body.

(d) Other matters that are critical or time-sensitive and that in the determination of the presiding officer should not be delayed; however, such matters shall not be considered at the meeting unless the members of the body present at the meeting approve the consideration of the matters by a two-thirds vote.

(3) The public body and its presiding officer comply with all of the requirements of this Section.

B. No later than twenty-four hours prior to a meeting conducted pursuant to the provisions of this Section, the public body shall provide for all of the following:

(1) The notice and agenda for the meeting, which shall be posted on the website of the public body, emailed to any member of the public or the news media who requests notice of meetings of the public body, and widely distributed to every known news media outlet that broadcasts or publishes news within the geographic area within the jurisdiction of the public body.

(2) Detailed information regarding how members of the public may participate in the meeting and submit comments regarding matters on the agenda, which information shall be posted on the website of the public body, emailed to any member of the public or the news media who requests notice of meetings of the public body, and widely distributed to every known news media outlet that broadcasts or publishes news within the geographic area within the jurisdiction of the public body.

C. For each meeting conducted pursuant to this Section:

(1) The public body shall provide a mechanism to receive public comment electronically both prior to and during the meeting.

(2) The public body shall properly identify and acknowledge all public comments during the meeting and shall maintain those comments in its record of the meeting.

(3) The presiding officer of the public body shall ensure that each person participating in the meeting is properly identified.

(4) The presiding officer shall ensure that all parts of the meeting, excluding any matter discussed in executive session, are clear and audible to all participants in the meeting including the public.

## **R.S. 42:19**

### **Notice**

All public entities must provide written public notice of all of its meetings, unless exempt by specific statutory or constitutional law.

Written notice for regular meetings established by law, resolution, or ordinance must be given at the beginning of each calendar year.

Written notice must also be given no later than 24 hours, exclusive of weekends and legal holidays, before any regular, special, or rescheduled meeting.

Written notice must be placed no less than 24 hours, exclusive of weekends and legal holidays, prior to any meeting:

- Posted at the place of the meeting or the official office of the body; or
- Published in the official journal of the public body.

The notice must also be posted on the website (if there is one) no less than 24 hours, exclusive of weekends or legal holidays, immediately preceding the meeting.

Mail a copy of the written notice to members of the news media who request it.

**The written notice must contain:**

- Date, Time, and Location
- Copy of the Agenda; and
- If an executive session will be held regarding a strategy session or negotiations for collective bargaining or litigation, the following must also be attached:
  - Statement identifying court, docket number, and parties relative to pending litigation; or
  - Statement identifying the parties involved and reasonably identifying the subject matter of any prospective litigation for which formal written demand has been made.

**Agenda**

**Must:**

- Include descriptive language
- List each item separately
- Have no changes made within 24 hours, exclusive of weekends and legal holidays, preceding the meeting

The public body may amend the agenda and take up additional matters during the meeting, but shall do so only after a unanimous vote of members present

Presiding officer shall read aloud a description of the item prior to action being taken.

**R.S. 42:19.1**

Act 486 of the 2018 Regular Legislative Session amended and reenacted R.S. 42:19.1 to provide additional notice requirements for public meetings in which a political subdivision is considering the proposal or the calling of certain tax proposition elections.

Written public notice must be published in the official journal no more than 60 days or less than 20 days prior to the meeting and announced during the course of a public meeting.

- Notice must provide the date, time, and location.

Additional notice must be provided through hand delivery or email to each voting member of any governing authority of a political subdivision that is required to approve tax related measures previously adopted by another governing authority and to each state senator or representative in whose district all or a portion of the political subdivision is located.

If cancelled or postponed, an additional notice of the new meeting must be published at least 10 days prior to the new meeting.

### [R.S. 42:20](#)

#### Minutes

Written minutes of all open meetings must be kept. It is often that the Legal duty is prescribed to the Secretary, Clerk, etc.

Must include:

- Date, time, and place of meeting;
- Members of the public body recorded as present or absent;
- The substance of all matters decided, and at the request of any member, a record, by individual member, of any votes taken; and
- Any other information that the public body requests be included or reflected in the minutes.

Minutes are a public record and must be made available within a reasonable time after the meeting, except at otherwise provided for by law.

Minutes need not be verbatim but should provide sufficient description to a reader as to what matters were considered, the outcome of votes, and identify that all legal procedures were complied with on taking up and adopting the matter.

Municipalities, Parish Governing Authorities, School boards, and other political subdivisions are required to publish their minutes in their official journal according to [R.S. 43:143](#) or [43:171](#).

If the public body has a website, they must publish their minutes online within 10 days from their publication in the official journal and must be maintained online for at least 3 months.

If the public body is not required to publish its minutes in an official journal, then it must post the minutes online within a reasonable time after the meeting.

[R.S. 42:23](#)

**Public Participation/ Recording**

All of the proceedings in a public meeting, with the exception of proceedings held in an executive session, may be video or tape recorded, filmed, or broadcast live.

The public entity shall establish standards for the use of lighting, recording or broadcasting equipment to ensure proper decorum in the meeting.

Nonelected boards or commissions which have the authority to levy a tax shall video or audio record, film, or broadcast live all proceedings of their public meetings, except for those as part of an executive session.

[R.S. 33:9099.2](#), enacted by Act 338 of the 2014 Regular Session, exempts the governing authorities of crime prevention and security districts, improvement districts, or other districts created by or pursuant to Chapter 29 of Title 33 of the revised statutes from the requirements of R.S.42:23(A), which otherwise would require an unelected board with the power to levy taxes to record the proceedings of their minutes.

**Violations of the Open Meetings Law**

Actions taken in violation of the Open Meetings Law may be voidable if legal action is commenced within 60 days of the action

Civil Penalties of up to \$500 per violation may also be assessed, as a personal liability of the violator.

## NOTICE REQUIREMENTS WHEN NOT ROLLING FORWARD

### Applicable Laws:

#### [R.S. 42:11 – 28 \[R.S. 42:11, et seq.\] Open Meetings Law](#)

- All public bodies shall give written public notice of any regular, special, or rescheduled meeting no later than twenty-four hours, exclusive of Saturdays, Sundays, and legal holidays, before the meeting.
- Presiding officer certifies specific requirements of R.S. 42:17.1, **if** the public meeting is being held by electronic means and attaches certification to all notices (agendas) as required. **(SEE UPDATE ON FIRST PAGE)**

For sample certification language, please see Question 26 of the [LLA's Open Meeting Law FAQ](#).

- Every meeting of any public body shall be open to the public unless closed pursuant to [R.S. 42:16](#), [R.S. 42:17](#), and [R.S. 42:18](#).
- All votes by members of the public body shall be viva voice (oral or electronic machine displaying vote and identifying who cast the vote) and entered into the minutes of the meeting.
- Public bodies are prohibited from utilizing any manner of proxy voting procedure, secret balloting, or any other means to circumvent the intent of the open meetings law.
- Public bodies shall allow a public comment period at any point in the meeting prior to action on an agenda item upon which a vote is to be taken. The governing body may adopt reasonable rules and restrictions regarding such comment period.
- Before the public body may take any action on the item, the presiding officer or his designee shall read aloud the description of the item.
- For exceptions to these requirements, see the open meetings law.

### Notice Requirements for Public Meeting

**Note:** The requirements of R.S. 42:17.1, which is part of the open meetings law, must be followed if a public body is conducting a meeting via electronic means. See the Open Meetings Law section of this book for specifics. **(SEE UPDATE ON FIRST PAGE)**

- Written public notice is required no less than 24 hours before the public meeting.
- Written public notice shall include:
  - Full and complete meeting agenda
    - The agenda shall not be changed less than 24 hours prior to the meeting.



- Each item on the agenda shall be listed separately and described with reasonable specificity.
- Date of the meeting
- Time of the meeting
- Place or location where the meeting will be held
- Notice of the public meeting may be:
  - Posted at the principal office of the public body, or if no such office exists, at the building in which the meeting is to be held; OR
  - Published in the official journal of the public body.

**In addition** to the posting or publishing requirement, the public body shall post the notice on their internet website.

**Additional Agenda Requirements (during actual meeting)**

- The presiding officer or designee must read aloud the description of each agenda item before any action is taken.
- A public comment period must be allowed at any point in the meeting prior to action on any agenda item upon which a vote is to be taken.
- The public body may adopt reasonable rules and restrictions regarding such comment period.

**General Notice Requirements**

- Agenda must be clear as to what the public body is doing in the meeting.
- Action verbs are required for millage rate adoption so the public will be completely informed that millage rates will be adopted during the meeting. Examples of action verbs: adopt, fix, set, establish, etc.
- If category headings are used on the agenda, list the items below the heading or include the word “None.”
- Millage adoption should take place in a public meeting.
- Date of posting and time must be shown to provide evidence that at least 24 hours’ notice was given to the public.
- If the notice/agenda of the public meeting is published in the official journal of the public body, the full tear sheet must be furnished. The full tear sheet of the newspaper will show the name of the paper, the date of publication, and the advertisement. The full meeting agenda in this case.
- The legislative auditor requests that the public body prepare the notice/agenda on letterhead, if possible. This is not mandatory.
- If the notice/agenda is not prepared on letterhead, clearly show the name of the taxing district.
- The notice of public meeting does not have to be signed; however, a contact person should be listed for informational purposes.

## **DOCUMENTS REQUIRED WHEN NOT ROLLING FORWARD**

### **Documents required (these will be submitted to the Legislative Auditor for approval)**

- Notice of Public Meeting, including the full meeting agenda
- Certification required by R.S. 42:17.1 **if** public meeting was held by electronic means. For sample certification language, please see Question 26 of the [LLA's Open Meeting Law FAQ](#). **(SEE UPDATE ON FIRST PAGE)**
- One Ordinance or Resolution (sample forms available on LLA website)
- Affidavit
- Notary datasheet

### **Requirements for the Resolution or Ordinance**

- One resolution or ordinance
- Requires a simple majority votes of members present
- Must be signed by an authorized person
- Must show the date of adoption
- Adoption must correspond with the notice of meeting date
- Must reflect a complete vote count including:
  - Yeas
  - Nays
  - Absent
  - Abstained
- Must adopt a specific millage rate(s)
- All millages may be adopted in one resolution or ordinance

### **Requirements for the Affidavit**

- A sworn statement required by the Legislative Auditor to be assured by the public body the meeting was properly held.
- Affiant is attesting all of the notice requirements prescribed by the open meetings law have been met.
- The blanks to be completed on the affidavit are describing the public meeting was held in compliance with the open meetings law; therefore, the required date, time and place of meeting should correspond with the notice of public meeting.
- Affiant is attesting that required notices are attached.
- Name of affiant must be set forth in the affidavit.

- Affiant’s signature is required.
- Affiant must sign in the presence of the notary.
- Notary is required by [R.S. 35:12](#) to type, print, or stamp his or her name as commissioned with the Secretary of State.

### **Notary Datasheet**

- Go to the Secretary of State’s website, [www.sos.la.gov](http://www.sos.la.gov), to obtain the datasheet.
- Confirm the notary typed, printed or stamped as commissioned.
- Confirm the notary’s identification number or bar roll number.
- Confirm the notary’s status is “Active”, no other status will be accepted.
- Print and attach a copy of the Notary Detailed Datasheet on the notary signing the affidavit.

## NOTICE REQUIREMENTS WHEN “ROLLING FORWARD”

Roll forward only occurs when an increase in property values adjusts millage rates downward, and the taxing district wants to roll back up to the “prior year’s maximum” (aka maximum authorized millage) or somewhere in between.

A public **hearing** is required for the roll forward AND a public **meeting** is required to adopt the millage.

### Art. VII, § 23(C) of the La Const.

- Two separate publications are required no less than 30 days before the public hearing;
- Publications shall include [but not limited to] the date, time, place and subject matter of public hearing;
- Publications shall be published on two separate days in the official journal and in another newspaper with a larger circulation within the taxing authority, if there is one.

### R.S. 47:1705(B)

- Public hearings will be held in accordance with the open meetings law.
- Additional notice requirements for increasing millage rates without further voter approval, apply to all parishes except Rapides.
- Publications shall contain a statement:  
**Tax recipient body intends to consider levying additional or increased millage rates without further voter approval.**
- Publications shall be published on two (2) separate days in the official journal and in another newspaper with a larger circulation within the taxing authority, if there is one.
- The second publication in the official journal and in the newspaper with a larger circulation within the taxing authority, if applicable, has to have at least 30 days from the date of the second publication to the hearing date.
- The Louisiana Tax Commission shall prescribe publication requirements which shall include:
  - Placement in a prominent section of the newspapers;
  - Placement cannot be in the classified advertisement or public notice sections of the newspapers;
  - Formatted in a box with a bolded outline;
  - A size of not less than 2 inches by 4 inches (2” x 4”);
  - Print in bold face type;

- Publication charges by official journal shall not be in excess of charges for regular commercial advertising; and
- Failure to timely publish renders the millage null, void and of no effect.

### Sample Publication

Notice is hereby given pursuant to Article 7, Section 23(C) of the Louisiana Constitution and R.S. 47:1705(B) that a public hearing of Recreation District No. 3 in East Baton Rouge Parish will be held at its regular meeting place in Room 112 of the Chase Bank Building, located at 2450 Corporate Boulevard, Baton Rouge, LA on Tuesday, May 25, 2011 at 5:00 p.m. to consider levying additional or increased millage rates without further voter approval or adopting the adjusted millage rates after reassessment and rolling forward to rates not to exceed the prior year's maximum. The estimated amount of tax revenues to be collected in the next year from the increased millage is \$86,421.24, and the amount of increase in taxes attributable to the millage increase is \$6,830.75.

**Note:** Proofs or Affidavits of Publication will no longer be accepted unless they include the specific formatting and placement of each 2 x 4 advertisement.

- Tax recipient body shall provide the assessor in its parish the date, time, and place of the pending public hearing.
- Assessor shall maintain a list of all pending hearings in his parish.
- Assessor may publish such hearing dates on his website.
- Tax recipient body shall issue a press release to newspapers with substantial distribution within the parish of the tax recipient's jurisdiction AND to area broadcast media.

**Additional notice requirements were added by Act 498 of the 2009 Regular Session, amending R.S. 47:1705(B)(2)(c). These requirements apply to all parishes, except Rapides.**

- On the first day of publication, occurring no less than 30 days before the public hearing date, the tax recipient body must post the notice of public hearing on their Internet website, if there is one.
- The internet posting shall remain active until action has been taken to approved or disapprove or action has been abandoned on the proposed millage increase.

**Additional notice requirements were added by Act 1027 of the 2010 Regular Session, amending R.S. 47:1705(B)(2)(c)(i). These requirements apply to all parishes, except Rapides.**

- The publications to consider levying additional or increased millage rates without further voter approval shall contain:

- An estimate of the amount of tax revenues to be collected in the next tax year from the increased millage as compared to the amount of tax revenue for the current year, AND
  - The amount of increase in taxes attributable to the millage increase.
- For purposes of the Internet publication only, the notice shall contain a recitation of the current budget of the taxing authority.

**R.S. 47:1705.1 enacted by Act 258 of the 2013 Legislative Session**

- Requires any taxing authority with a nonelected board and in any parish with a population between 230,000 and 250,000 to coordinate date, times and place for all public hearings in which they seek a millage increase. The parish governing authority shall establish a schedule of specific dates and times for the conduct of the public hearings and public meetings. At the discretion of the parish governing authority, public hearings and public meetings on the same date shall be scheduled sequentially in a manner which allows for the maximum opportunity for taxpayer attendance to the greatest degree practicable. Further, the schedule shall be configured to facilitate the opportunity for an interested property owner from a particular geographic area to be in attendance regarding consideration of various taxing authorities' proposed increases in millages that affect his property.

**Subsequent Meeting**

- If the public hearing to consider levying additional or increased millage is cancelled or postponed, OR if the proposal was considered at the public hearing without action or vote, then, any future hearing to consider such proposal shall be advertised and publicized as required in R.S. 47:1705(B) except that no newspaper advertisement shall be required.
- For each subsequent public hearing from the newspaper advertised hearing date, the tax recipient body shall again:
  - Provide the assessor with the date, time and place of it pending hearing
  - Assessor shall maintain a list of the pending hearing dates and
  - Assessor may publish the hearing dates on his website
  - Issue a press release to newspapers with substantial distribution within the parish of recipient's jurisdiction and
  - Issue a release to area broadcast media

**R.S. 42:11 – 28 [R.S. 42:11, et seq.] Open Meetings Law**

- All public bodies shall give written public notice of any regular, special, or rescheduled meeting no later than twenty-four hours, exclusive of Saturdays, Sundays, and legal holidays, before the meeting.

Presiding officer certifies specific requirements of R.S. 42:17.1, **if** the public hearing and/or meeting is being held by electronic means and attaches certification to all notices (agendas) as required. For sample certification language, please see Question 26 of the [LLA's Open Meeting Law FAQ](#). (SEE UPDATE ON FIRST PAGE)

- Every meeting of any public body shall be open to the public unless closed pursuant to [R.S. 42:16](#), [R.S. 42:17](#), and [R.S. 42:18](#).
- All votes by members of the public body shall be viva voice (oral or electronic machine displaying vote and identifying who cast the vote) and entered into the minutes of the meeting.
- Public bodies are prohibited from utilizing any manner of proxy voting procedure, secret balloting, or any other means to circumvent the intent of the open meetings law.
- Public bodies shall allow a public comment period at any point in the meeting prior to action on an agenda item upon which a vote is to be taken. The governing body may adopt reasonable rules and restrictions regarding such comment period.
- Before the public body may take any action on the item, the presiding officer or his designee shall read aloud the description of the item.

### **Notice Requirements for Public Hearing**

- Written public notice (with specific language and formatting) must be published twice in the official journal and twice in a newspaper with a larger circulation, if there is one, no less than 30 days before the public hearing.
- Written public notice is required no less than 24 hours before the public hearing.
- Written public notice shall include:
  - Full and complete hearing agenda;
    - ✓ The agenda shall not be changed less than 24 hours prior to the hearing;
    - ✓ Each item on the agenda shall be listed separately and described with reasonable specificity;
  - Date of the hearing;
  - Time of the hearing; and
  - Place or location where the hearing will be held.
- Notice of the public hearing may be:
  - Posted at the principal office of the public body, or if no such office exists, at the building in which the meeting is to be held; OR
  - Published in the official journal of the public body.

**In addition** to the posting or publishing requirement, the public body shall post the notice on their internet website.

### **Notice Requirements for Public Meeting**

- Written public notice is required no later than 24 hours before the public meeting.
- Written public notice shall include:
  - Full and complete meeting agenda;

- ✓ The agenda shall not be changed less than 24 hours prior to the meeting;
- ✓ Each item on the agenda shall be listed separately and described with reasonable specificity.
- Date of the meeting;
- Time of the meeting; and
- Place or location where the meeting will be held.
- Notice of the public meeting may be:
  - Posted at the principal office of the public body, or if no such office exists, at the building in which the meeting is to be held; OR
  - Published in the official journal of the public body.

**Note:** The requirements of R.S. 42:17.1, which is part of the open meetings law, must be followed if a public body is conducting a hearing and/or meeting via electronic means. See the Open Meetings Law section of this book for specifics. **(SEE UPDATE ON FIRST PAGE)**

**In addition** to the posting or publishing requirement, the public body shall post the notice on their internet website.

#### **Additional Agenda Requirements** (during actual meeting)

- Presiding officer or designee must read aloud the description of each agenda item before any action is taken.
- Allow a public comment period at any point in the meeting prior to action on any agenda item upon which a vote is to be taken.
- The public body may adopt reasonable rules and restrictions regarding such comment period.

#### **General Notice Requirements**

- Agenda must be clear as to what the public body is doing in the meeting;
- Action verbs are required for millage rate adoption so the public will be completely informed that millage rates will be adopted during the meeting. Examples of action verbs: adopt, fix, set, establish, etc;
- If category headings are used on the agenda, list the items below the heading or include the word "None;"
- Millage adoption should take place in a public meeting;
- If the notice/agenda of the public meeting is posted, the date of posting and time must be shown to provide evidence that at least 24 hours' notice was given to the public;



- If the notice/agenda of the public meeting is published in the official journal of the public body, the full tear sheet must be furnished. The full tear sheet of the newspaper will show the name of the paper, the date of publication, and the advertisement. The full meeting agenda in this case;
- The legislative auditor requests that the public body prepare the notice/agenda on letterhead, if possible. This is not mandatory;
- If the notice/agenda is prepared on letterhead, the “place” of meeting still has to be set forth in the agenda;
- If the notice/agenda is not prepared on letterhead, clearly show the name of the taxing district;

## DOCUMENTS REQUIRED WHEN “ROLLING FORWARD”

Remember a public hearing and a public meeting are required when rolling forward.

### Documents required (these will be submitted to the Legislative Auditor for approval)

- Notice of Public Hearing, including the complete agenda;
- Notice of Public Meeting, including the complete agenda;
- Certification required by R.S. 42:17.1 **if** public hearing and/or meeting was held by electronic means. For sample certification language, please see Question 26 of the [LLA’s Open Meeting Law FAQ](#) ; (SEE UPDATE ON FIRST PAGE)
- Original tear sheets (2 separate publications) from the official journal; and,
- Original tear sheets (2 separate publications) from a newspaper with a larger circulation, if applicable;

**Note:** Proofs or Affidavits of Publication will no longer be accepted unless they include the specific formatting and placement of each 2 x 4 advertisement.

- Two Ordinances or Resolutions;
- Affidavit;
- Notary datasheet.

All other notices and documentation required to roll forward are kept by the taxing authority.

### Requirements for the Resolution or Ordinance

- Two separate resolutions or ordinances
  - First resolution or ordinance
    - ✓ Requires a simple majority vote of members present;
    - ✓ Must set forth and designate the adjusted millage rate determined at reassessment;
    - ✓ All adjusted millage rates may be set forth and designated in one resolution or ordinance.
  - Second resolution or ordinance
    - ✓ Requires 2/3 vote of the total membership of the board;
    - ✓ Must set forth and designate the adjusted millage rate determined at reassessment AND the increased rate being levied for the current tax year;
    - ✓ All other millage rates that are NOT subject to the roll forward but are being levied may be levied under the current year column. These will not have an adjusted millage rate.

### Both resolutions and ordinances shall

- Be signed by an authorized person;
- Show the date of adoption. This must correspond with the meeting date;

- Reflect a complete vote count, including:
  - Yeas;
  - Nays;
  - Absent;
  - Abstained.

### **Requirements for the Affidavit**

- A sworn statement required by the Legislative Auditor to be assured by the public body the meeting was properly held.
- Affiant is attesting all of the notice requirements prescribed by the open meetings law have been met.
- The blanks to be completed on the affidavit are describing the public meeting was held in compliance with the open meetings law; therefore, the required date, time and place of meeting should correspond with the notice of public meeting.
- At the statement ‘Roll Forward Occurred,’ mark “Yes.”
- Affiant is attesting that all requirements to roll forward (or increase millage rates) were done by the taxing authority.
- Affiant is attesting that required notices are attached.
- Name of affiant must be set forth in the affidavit.
- Affiant’s signature is required.
- Affiant must sign in the presence of the notary.
- Notary is required by [R.S. 35:12](#) to type, print, or stamp his or her name as commissioned with the Secretary of State.

### **Notary Datasheet**

- Go to the Secretary of State’s website, [www.sos.la.gov](http://www.sos.la.gov), to obtain the datasheet.
- Confirm the notary typed, printed or stamped as commissioned.
- Confirm the notary’s identification number or bar roll number.
- Confirm the notary’s status is “Active”, no other status will be accepted.
- Print and attach a copy of the Notary Detailed Datasheet on the notary signing the affidavit.

## TYPES OF AD VALOREM TAXES

### Types of Millages a/k/a Taxes

- Constitutional
- Statutory
- Voter-approved

### Constitutional Millage

- Some examples of millage rates authorized by the Constitution are:
  - [Art. VI, § 27\(A\)](#) authorizes municipalities to levy 7.0 mills for general purposes,
  - [Art. VI, § 26\(A\)](#) authorizes parish governing authorities to levy 4.0 mills for general purposes
  - [Art. VIII, §13\(C\)](#) authorizes school board to levy 5.0 mills for maintenance.

### Statutory Millage

- Millage that is authorized by the Legislature to be levied by a taxing authority. Some millages have specific rates set forth in the statutes, and some millages are determined by a formula. Examples of millage rates authorized by the statutes are:
  - [R.S. 15:1099.5](#) authorizes a governing authority that enters into a program for juvenile justice to levy a specific millage for a number of years.
  - [R.S. 47:1925.2](#) authorizes the creation of assessment districts and a formula to determine the millage rate to be levied initially.
- It is the responsibility of the taxing authority to furnish the assessor and the legislative auditor with the Act that creates a tax. The tax will not be added to the tax roll without it.

### Voter-Approved Millage

- Millages that are authorized by a majority of the electors in that taxing district.
- The State Bond Commission and the Secretary of State approve the proposition before it goes to the voters.
- The proposition will contain, but is not limited to,
  - The millage to be levied,
  - The purpose of the tax,
  - A term,
  - A beginning date,
  - A recitation of the dollars to be collected in one year from the tax.
- Propositions voted on for bonds will not have a specific millage, but will have an amount not to exceed an issue value, as well as other criteria.

- After the tax passes, the taxing district will canvass the votes and prepare a procès verbal showing the election results.
- In addition to all of requirements, [R.S. 18:1293](#) requires the procès verbal to include a copy of the notice of election and proof of publication
- The procès verbal will be recorded by the Secretary of State and the mortgage records of the parish of the taxing district.
- The taxing authority or its bonding attorney will forward a copy of the recorded procès verbal to the legislative auditor.

### **Maximum Millage Report**

- A report showing all millages for each parish and the municipalities therein is available on the LLA website and at the assessors' secured site. This report is to be used for informational purposes only. It is not mandated by law.
- The report shows information about the millages approved to be levied by a taxing authority including the expiration date of the voter-approved millages.
- The report is updated each year as soon as the previous tax year is concluded, usually during February or March.
- It is the responsibility of the taxing authority to renew or put the proposition before the voter to continue a tax.
- If an election is held and the proposition fails, the Louisiana Constitution requires a 6 month waiting period before putting it on the ballot again, unless there is an emergency.

## ACCESS TO INFORMATION

### Louisiana Legislative Auditor's (LLA's) Web site

- [www.lla.la.gov](http://www.lla.la.gov)
- Under "Local Government Entities" and "Legal"

### Information Available at Assessors & Millages Web page

- Millage Workshop Schedule
- Forms
- Maximum Millage Reports and Legend
- Pension Fund Reports (7 retirement systems)
- Educational Materials
  - FAQs – Tax Review
  - FAQs – Legal
  - Time Table for Ad Valorem Taxes
- Other Information and Links

### Information Available at Legal Assistance

- [Open Meeting FAQ](#)
- Other Information and Links

### Secretary of State's Web site

<http://www.sos.la.gov/>

### LLA's Tax Review Officer, Jo Ann Garrison

- E-mail: [jgarrison@lla.la.gov](mailto:jgarrison@lla.la.gov)
- Telephone: (225) 339-3940
- Fax: (225) 388-4147
- Physical Address: 1600 North Third Street, Baton Rouge, La 70802
- Mailing Address: P. O. Box 94397, Baton Rouge, La 70804-9397