



**To: Superintendent, Superintendent Secretary, and Council of School Attorney
Member Addressed**
From: TASB Legal Services
Date: March 15, 2017
Subject: Adoption of Budget and Tax Rates—Traditional Method

It is time once again for Texas school districts to adopt their budgets and tax rates. This memo provides an overview of the traditional method school districts use in adopting their budget and tax rates under Texas Education Code sections 44.001 through 44.006 and Texas Tax Code chapter 26. Budget adoption is addressed in TASB Policy CE(LEGAL) and tax rate adoption is addressed in TASB Policy CCG(LEGAL).

If your district uses the early tax rate adoption process under Texas Tax Code section 26.05(g) and Texas Education Code section 44.004(j) to adopt its tax rate based on the certified *estimate* of property values instead of the certified appraisal roll, please see TASB Legal Services' [Adoption of Budget and Tax Rates—Early Tax Rate Adoption](#)¹.

Where to Start

Information and assistance, including calculation worksheets and sample notices can be found on the Texas Comptroller's Truth-in-Taxation (TNT) Website for school districts.²

Region 13 ESC has published [state funding worksheets](#),³ including a template for calculating effective maintenance and operations (M&O) rates, to assist districts in making the required tax rate calculations.

Board members and district administrators may direct questions concerning truth-in-taxation requirements and tax rate calculations to the Comptroller's Property Tax Assistance Division at 512-305-9999 or 800-252-9121 (press 2 for menu, then 1 for the Information Services Team), or by e-mail at ptad.cpa@cpa.state.tx.us. Legal questions concerning truth-in-taxation should be directed to your school district's attorney.

¹ tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Business/documents/adopt_budget_tax_early_march17.aspx.

² comptroller.texas.gov/taxes/property-tax/truth-in-taxation/school-districts.php; more general TNT information may be found at comptroller.texas.gov/taxes/property-tax/truth-in-taxation/index.php. Additionally, helpful TNT videos may be found under *Assessment and Collection Videos* at comptroller.texas.gov/taxes/property-tax/video/.

³ www5.esc13.net/finance/.

Required Steps for Traditional Method

- 1. Propose a budget:** For districts with a September 1 fiscal year, the superintendent, as the budget officer for the district, prepares the proposed budget by August 20. For districts with a July 1 fiscal year, the superintendent prepares the proposed budget by June 19.⁴
- 2. Propose a tax rate:** The chief appraiser must prepare and certify the appraisal roll that contains the taxable property value of a school district by July 25.⁵ In proposing and adopting a tax rate, a district must calculate the district's effective tax rate and rollback tax rate.⁶
 - The Texas Attorney General has concluded that a school district may not use the certified estimate (available by April 30) to adopt a tax rate *after* adopting its budget. A district that has not elected to use the early adoption method would lack authority to depart from the general rule requiring the use of the certified appraisal roll to adopt a tax rate after adoption of the district's budget.⁷
- 3. Plan public meeting:** A district using the traditional method of budget and tax rate adoption must hold at least one public meeting to discuss the proposed budget and tax rate and to receive public input.⁸
- 4. Publish notice in the newspaper:** At least 10 but not more than 30 days before the public meeting to discuss and adopt the budget and the proposed tax rate, a district must publish notice of the meeting in strict accordance with the requirements of Texas Education Code section 44.004. The language and format of the notice are prescribed by the comptroller as set out in Texas Education Code section 44.004(c), (c-1).⁹
 - The notice must be published in a daily, weekly, or biweekly newspaper published in the district. If no such newspaper is published in the district, the notice must be published in at least one newspaper of general circulation in the county in which the district's central administrative office is located.¹⁰

⁴ *Financial Accountability System Resource Guide, Module 2, Budgeting*, section 2.6.1, tea.texas.gov/Finance_and_Grants/Financial_Accountability/Financial_Accountability_System_Resource_Guide/.

⁵ Tex. Tax Code § 26.01(a).

⁶ Tex. Tax Code § 26.08. The Comptroller's TNT Website for school districts provides information and worksheets for calculating the effective tax rate and the rollback tax rate.

⁷ Op. Tex. Att'y Gen. No. KP-1 (2015), texasattorneygeneral.gov/opinions/opinions/51paxton/op/2015/kp0001.pdf. The Texas Attorney General's Public Finance Division has guidance regarding a school district's authority to use M&O taxes to pay debt service on existing district bonds. Attorney General, *To All Bond Counsel Letter* (May 2010), texasattorneygeneral.gov/opin/abc_letters/20100514abc.pdf. The attorney general also issued a related opinion regarding several tax rate issues. Op. Tex. Att'y Gen. No. GA-775 (2010), texasattorneygeneral.gov/opinions/opinions/50abbott/op/2010/htm/ga-0775.htm.

⁸ Tex. Educ. Code § 44.004.

⁹ Additional information is available on the Comptroller's TNT Website at comptroller.texas.gov/taxes/property-tax/truth-in-taxation/school-districts.php. The required Notice form may be found under the heading *Notice Requirements*.

¹⁰ Tex. Educ. Code § 44.004(b).

- The notice must be at least one-quarter page of a standard-size or a tabloid-size newspaper, and the headline must be in 18-point or larger type. Because the required notice is two pages, most newspaper postings will be larger than the quarter-page minimum requirement.
 - All districts must publish the notice and hold the public meeting to discuss the budget and proposed tax rate, regardless of whether the tax rate is increasing, decreasing, or remaining the same.
- 5. Post notice as required by the Open Meetings Act (OMA):** At least 72 hours before the public meeting, a district must post notice of the meeting in accordance with the OMA.
- If a board plans to adopt the budget and tax rate at the same meeting, the meeting notice must list separate agenda items for the budget and tax rate, in that order. The board may also conduct any other business properly posted under the OMA at the meeting.
- 6. Post a summary of the proposed budget:** At the same time the NOTICE OF PUBLIC MEETING TO DISCUSS BUDGET AND PROPOSED TAX RATE (step 4) is published, the district must post a summary of the proposed budget on the district’s website or at the central administrative office if the district has no website.¹¹
- The budget summary must include information relating to per student and aggregate spending on instruction, instructional support, central administration, district operations, debt service, and any other category designated by the commissioner of education. The summary must also compare the previous year’s actual spending with the proposed budget.¹²
 - Districts are not required to post the summary in a specific format; however, districts may find Region 12 ESC’s [template](#)¹³ helpful.
- 7. Conduct the public meeting:** After notice of the public meeting has been given for the required amount of time (see steps 4 & 5), the board may convene the public meeting. Any taxpayer in the district may be present and participate in the meeting.¹⁴ The board may hear public comments, discuss, and then vote to adopt the budget and the tax rate all in the same public meeting if properly posted under the OMA.
- 8. Adopt the budget:** Under the traditional method, the budget *must* be adopted before the tax rate; thus, if the two are being adopted at the same meeting, the board should vote to adopt the budget and then, in a separate vote, adopt the tax rate.
- The budget must be adopted no later than June 30 in districts with a fiscal year beginning July 1, and no later than August 31 in districts with a fiscal year beginning September 1.¹⁵

¹¹ Tex. Educ. Code § 44.0041.

¹² Tex. Educ. Code § 44.0041.

¹³ esc12.net/page/bis_school_finance.

¹⁴ Tex. Educ. Code § 44.004(f).

¹⁵ *Financial Accountability System Resource Guide, Module 2, Budgeting*, section 2.6.1, tea.texas.gov/Finance_and_Grants/Financial_Accountability/Financial_Accountability_System_Resource_Guide/.

- Texas Education Code section 29.081(b-2) requires school districts to “separately budget” sufficient funds for providing accelerated instruction to students who do not perform satisfactorily on state-mandated end-of-course exams. Districts may not use compensatory education funds for any other purpose until sufficient funds are budgeted for accelerated instruction. Because school district budgets do not typically have a separate line item for accelerated instruction, districts may wish to maintain separate documentation to show how the costs of required accelerated instruction are represented throughout the budget.

9. File the budget with TEA: After adoption, the budget must be filed with TEA through PEIMS by the date prescribed in the annual system guidelines.¹⁶

10. Post the adopted budget: The final adopted budget must be posted on the district’s website.¹⁷ This requirement is in addition to posting the proposed budget. The website must prominently display the electronic link to the adopted budget. The adopted budget must be maintained on the website for three years after adoption.¹⁸ The statute does not address posting requirements for later amendments to the budget.

- Districts are not required to post the final budget in a specific format; however, districts may find Region 12 ESC’s [template](#)¹⁹ helpful.

11. Adopt the tax rate: A school board adopts a tax rate by adopting a resolution. Sample resolution forms for tax rate adoption may be found at CCG(EXHIBIT) in the TASB Policy Service Regulations Resource Manual.

- As stated previously, the board may adopt the budget and tax rate, in that order, at the same meeting; if the board does so, the postings described above will suffice. If the board waits to adopt the tax rate at a later meeting, the board must provide proper 72-hour OMA notice to adopt the final tax rate, but additional newspaper notice is not required.
- The board must adopt a tax rate before the later of September 30 or 60 days after receiving the certified appraisal roll.²⁰ A district that receives an equalized wealth notice from the commissioner of education may not adopt its tax rate until the commissioner certifies that the district has reached its equalized wealth level.²¹
- The following motion is required to adopt a resolution setting a tax rate that exceeds a district’s effective tax rate:

“I move that the property tax rate be increased by the adoption of a tax rate of (specify tax rate), which is effectively a (insert percentage by which the proposed rate exceeds the effective tax rate) percent increase in the tax rate.”

¹⁶ *Financial Accountability System Resource Guide, Module 2, Budgeting*, section 2.6.2, tea.texas.gov/Finance_and_Grants/Financial_Accountability/Financial_Accountability_System_Resource_Guide/.

¹⁷ Tex. Educ. Code § 44.0051(a).

¹⁸ Tex. Educ. Code § 44.0051(b).

¹⁹ esc12.net/page/bis_school_finance.

²⁰ Tex. Tax Code § 26.05(a).

²¹ Tex. Educ. Code § 41.004(c).

- The vote on a resolution setting a tax rate that exceeds the sum of the effective M&O tax rate and the current debt rate must be a record vote with at least 60% of the board (5 members of a 7 member board) voting in favor of the resolution.²²
- If a board adopts a tax rate that will generate more total revenue to fund M&O than last year's tax rate or that exceeds the effective tax rate, the resolution and the district's website must contain special notice provisions indicating an increase. See Texas Tax Code section 26.05(b), TASB Policy CCG(LEGAL), and the Comptroller's TNT [Website](#) at *Hearing Requirements* for more information and specific wording.
- If the rate calculated for debt service (the I&S rate) decreases after the initial publication of notice, it is not necessary to publish another notice or to conduct another meeting to discuss and adopt the budget and the proposed lower tax rate.

12. Order and conduct a tax ratification election (TRE), if required: If the board adopts a tax rate above the district's rollback tax rate, it must hold an election to ratify that rate.²³ If a majority of the votes cast in the election favor the proposition, the tax rate for the current year is the rate adopted by the board. If the proposition is not approved, then the board may not adopt a tax rate for the current year that exceeds the rollback rate.²⁴

- A TRE must be conducted 30 to 90 days after the adoption of a tax rate above the rollback rate. If the November uniform election date falls within this time period, the district *must* hold the TRE on the uniform election date.²⁵ In that case, all uniform election requirements and deadlines regarding early voting, ballot preparation, notice, etc., apply to the TRE process.²⁶ For more information on tax ratification elections, please refer to TASB Legal Services' [Tax Ratification Election Information and Timelines](#).²⁷ The Comptroller's TNT Website offers additional information about TRE procedures. A sample election ballot can be found in the *Rollback Elections* section of the website.²⁸

²² Tex. Tax Code § 26.05(b).

²³ Tex. Tax Code § 26.08(a). In some instances, a higher rate may be adopted without the need to conduct a TRE. For example, a district that has reduced its M&O rate one year may be able to raise its M&O rate in the subsequent year without conducting a TRE. If a district's adopted M&O tax rate for the prior year was less than its effective M&O rate for that year, then the district's current-year rollback tax rate will be calculated as if its prior-year adopted M&O rate were equal to its prior-year effective M&O rate. Tex. Tax Code § 26.08(p). Also, as described in detail in the *Additional Rollback Protection for Pollution Control* section of the Comptroller's TNT Website, some districts will be eligible for a higher rate due to pollution control efforts as determined by the Texas Commission on Environmental Quality (TCEQ). comptroller.texas.gov/taxes/property-tax/truth-in-taxation/pollution-control-addrollback.php. Finally, in some situations where an increased tax rate is due to disaster recovery expenses, an election may not be required. Tex. Tax Code § 26.08(a).

²⁴ Tex. Tax Code § 26.08(d).

²⁵ Tex. Tax Code § 26.08(b).

²⁶ sos.state.tx.us/elections/voter/2017-important-election-dates.shtml.

²⁷ tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Business/documents/tax_ratification_elec_info.aspx.

²⁸ comptroller.texas.gov/taxes/property-tax/truth-in-taxation/school-districts.php.

13. Approve final tax roll: After the tax rate is adopted, the assessor will calculate the tax imposed on each property included on the appraisal roll, enter the amount of tax in the appraisal roll, and submit it to the school board for approval. The appraisal roll with amounts of tax entered as approved by the board constitutes the district's tax roll.²⁹

14. Submit tax information to County Assessor-Collector: Texas Tax Code section 26.16 requires each taxing unit located wholly or in part in a county to provide the unit's adopted tax rate, M&O rate, debt rate, effective tax rate, effective M&O rate, and rollback rate to the county assessor-collector for posting on the county's website, if the county maintains a website, in a "Truth in Taxation Summary" table, which will include definitions for the various taxes.

If you have additional questions concerning the adoption of a budget or tax rate, please contact TEA, the Texas Comptroller, your district's attorney, or TASB Legal Services at 800-580-5345.

For more information on this and other school law topics, visit TASB School Law eSource online at schoollawesource.tasb.org.

This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is not an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. Consult with your own attorneys to apply these legal principles to specific fact situations.

March 2017

²⁹ Tex. Tax Code § 26.09(e).