



## 2017 Tax Ratification Election Information and Timelines

This memo outlines relevant deadlines and procedures for conducting a tax ratification election (TRE) in 2017, both for districts using the early tax rate adoption process and districts adopting budgets and tax rates on the traditional timeline. Information in this document should be used in conjunction with TASB Legal Services' guides on budget and tax rate adoption.<sup>1</sup> Please note that the dates included in the TRE timelines are provided as a guide and starting point for district planning purposes only. The district should review its final TRE calendar with local counsel to ensure accuracy.

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## BACKGROUND INFORMATION

**Truth-in Taxation Guide:** The Texas Comptroller includes guidance about TREs on its Truth-in-Taxation (TNT) Website for school districts.<sup>2</sup> A sample ballot can be found in the *Rollback Elections* section of the website.

**TRE Requirement:** Texas law requires school districts to calculate two tax rates—the effective tax rate and the rollback tax rate—after the district receives the certified appraisal roll or certified estimate of taxable value from the chief appraiser.<sup>3</sup> Generally, if a school board adopts a tax rate above its rollback tax rate, it must hold an election to ratify that rate (a tax ratification election or TRE). If a majority of the votes cast in the election favor the proposition to approve the rate, the tax rate for the current year is the rate adopted by the board. If the proposition is not approved, the board may not adopt a rate higher than the rollback rate.<sup>4</sup>

**Exceptions to TRE Requirement:** In some circumstances, a higher rate may be adopted without the need to conduct a TRE. For example, a district that has reduced its maintenance and operations (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

<sup>1</sup> [tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Business/documents/adopt\\_budget\\_tax\\_early\\_march17.aspx](http://tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Business/documents/adopt_budget_tax_early_march17.aspx), [tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Business/documents/adopt\\_budget\\_tax\\_traditional\\_march17.aspx](http://tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Business/documents/adopt_budget_tax_traditional_march17.aspx).

<sup>2</sup> [comptroller.texas.gov/taxes/property-tax/truth-in-taxation/school-districts.php](http://comptroller.texas.gov/taxes/property-tax/truth-in-taxation/school-districts.php).

<sup>3</sup> Tex. Tax Code § 26.08.

<sup>4</sup> Tex. Tax Code § 26.08(d).

adopted M&O rate were equal to its prior-year effective M&O rate. Also, in some situations where an increased tax rate is due to disaster recovery expenses, an election may not be required.<sup>5</sup> Finally, 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).<sup>6</sup>

**Timing of TRE:** A TRE must be conducted 30 to 90 days after the date the tax rate is adopted. If the **November 7, 2017** uniform election date falls within that period, a district must hold the TRE on the uniform election date.<sup>7</sup> Consequently, a school district hoping to hold a TRE prior to the November uniform date should begin planning as soon as possible.

## **PROCEDURAL TAX RATE ADOPTION INFORMATION**

**Early Tax Rate Adoption:** Districts have the option to adopt tax rates using the certified estimate of property value.<sup>8</sup> This process is referred to as *early tax rate adoption*. For detailed information on adopting the district's tax rate and budget under this process, please refer to TASB Legal Services' [Adoption of Budget & Tax Rates—Early Tax Rate Adoption](#).<sup>9</sup> A school district using the early adoption process will adopt a tax rate before the budget and before receipt of the certified appraisal roll.<sup>10</sup>

**Traditional Tax Rate Adoption:** Traditionally, school districts adopt their budgets and tax rates after receipt of the certified appraisal roll on or before **July 25**.<sup>11</sup> For detailed information on adopting the district's budget and tax rate under this process, please refer to TASB Legal Services' [Adoption of Budget & Tax Rates—Traditional Method](#).<sup>12</sup>

**Notice Requirements:** Districts using either tax rate adoption process must publish notice in compliance with specific statutory requirements<sup>13</sup> and hold a public meeting to discuss and receive public input on the proposed tax rate. The notice of this meeting must be published not earlier than 30 days or later than 10 days prior to tax rate adoption.

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<sup>5</sup> Tex. Tax Code § 26.08(a), (p).

<sup>6</sup> [comptroller.texas.gov/taxes/property-tax/truth-in-taxation/pollution-control-addrollback.php](http://comptroller.texas.gov/taxes/property-tax/truth-in-taxation/pollution-control-addrollback.php)

<sup>7</sup> Tex. Tax Code § 26.08(b).

<sup>8</sup> Tex. Tax Code § 26.05(g); Tex. Educ. Code § 44.004(j).

<sup>9</sup> [tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Business/documents/adopt\\_budget\\_tax\\_early\\_march17.aspx](http://tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Business/documents/adopt_budget_tax_early_march17.aspx).

<sup>10</sup> The Texas Attorney General has concluded that a school district may not use the certified estimate to adopt a tax rate *after* adopting its budget. A district that has not elected to operate under the early adoption process 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. Op. Tex. Att'y Gen. No. KP-1 (2015), [texasattorneygeneral.gov/opinions/opinions/51paxton/op/2015/kp0001.pdf](http://texasattorneygeneral.gov/opinions/opinions/51paxton/op/2015/kp0001.pdf).

<sup>11</sup> Tex. Tax Code § 26.01(a).

<sup>12</sup> [tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Business/documents/adopt\\_budget\\_tax\\_traditional\\_march17.aspx](http://tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Business/documents/adopt_budget_tax_traditional_march17.aspx).

<sup>13</sup> Tex. Educ. Code § 44.004; see also *Notice Requirements* on the Comptroller's TNT Website at [comptroller.texas.gov/taxes/property-tax/truth-in-taxation/school-districts.php](http://comptroller.texas.gov/taxes/property-tax/truth-in-taxation/school-districts.php).

**Budget Adoption:** Districts using the early tax rate adoption process *must* publish a second notice and hold a second public meeting to adopt the budget after adoption of the tax rate and the TRE. Under the traditional method, the budget must be adopted *before* the tax rate, and the tax rate may be adopted at the same meeting as long as both items appear in that order on the agenda posted in accordance with the Open Meetings Act (OMA).

## **EARLY TAX RATE ADOPTION PROCESS AND TIMELINES**

As stated, districts may adopt tax rates using the certified estimate of taxable property value under the early tax rate adoption process. The dates below are provided only as a sample of the dates a district might use to adopt an early tax rate and conduct a TRE. Be sure that your district verifies each date or timeframe with the actual dates of adoption by the district and adjusts any dates accordingly. Again, the district should review its final TRE calendar with local counsel to ensure accuracy.

**Estimate of Tax Value:** Chief appraisers are required to prepare and certify an estimate of taxable property value for school districts by **April 30**;<sup>14</sup> however, because this date falls on a Sunday this year, it will be considered timely if delivered by Monday, May 1, 2017, the next regular business day.<sup>15</sup>

**Notice of Tax Rate:** If a district wishes to adopt its tax rate on the earliest possible date, notice for the tax rate adoption meeting should be published by **May 2, 2017**.

**Adoption of Tax Rate:** The board may conduct the meeting and adopt the tax rate as early as **May 12, 2017**, if the district complies with the notice requirements described at **Notice Requirements** above and the agenda posting requirements under the OMA.

**Order a TRE:** A TRE may be ordered as early as **May 12, 2017**, at the same meeting held to adopt the tax rate, as long as both adopting the tax rate and ordering the election are included as separate items on the agenda posted in accordance with the OMA.

Districts using the early tax rate adoption process are authorized to order a TRE with as few as 30 days' notice after the adoption of the tax rate.<sup>16</sup> Notice of the TRE must be provided to the county clerk of each county in which the district is located no later than the 30th day before election day.<sup>17</sup> All other election requirements and deadlines are the same as those for traditional TREs. A district must work with local counsel to calculate timeframes and deadlines if a TRE will be held on a non-uniform election date.

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<sup>14</sup> Tex. Tax Code § 26.01(e).

<sup>15</sup> Tex. Tax Code § 1.06.

<sup>16</sup> Tex. Elec. Code § 3.005(d).

<sup>17</sup> Tex. Elec. Code § 4.008(b).

**Conduct and Canvass the TRE:** The earliest date the district may hold the TRE is **June 11, 2017**, if the election is ordered as indicated above on May 12, 2017; however, because this date falls on a Sunday, the board may prefer to hold the election on a later date. The canvass for an election on June 11 may occur as early as **June 19, 2017** (8 days after election day).<sup>18</sup>

**The Final Tax Rate:** After the tax rate is adopted by the board and ratified by the voters, 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.<sup>19</sup> If voters do not ratify the adopted tax rate, the board may not adopt a tax rate that exceeds the rollback rate.<sup>20</sup> The appraisal roll with the amounts of tax entered as approved by the school board constitutes the district's tax roll.<sup>21</sup>

**Submit Final Tax Information to County Assessor-Collector:** Each taxing unit located wholly or in part in a county must 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 of the various taxes.<sup>22</sup>

## **TRADITIONAL TAX RATE ADOPTION PROCESS AND TIMELINES**

The following information pertains specifically to districts adopting their tax rates under the traditional method after receiving the certified appraisal roll from the appraiser. The dates provided below are only a sample of possible dates to execute specific tasks and are intended to assist districts who wish to conduct a TRE on a date other than the November uniform election date. If your district will conduct the TRE on the November uniform election date, please refer to the Texas Secretary of State's November election calendar for specific dates and other pertinent information.<sup>23</sup>

**Certified Appraisal Roll:** Chief appraisers must provide the certified appraisal roll for school districts by **July 25**.<sup>24</sup>

**Notice of Tax Rate:** If a district wants to adopt the tax rate on the earliest date possible, the required notice should be published by **July 26, though earlier publication is recommended if the certified roll is provided to the district before July 25**.

**Adoption of Tax Rate:** The earliest date a board may adopt its tax rate is **August 5, 2017**, if notice is published on July 26.

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<sup>18</sup> Tex. Elec. Code § 67.003(a).

<sup>19</sup> Tex. Tax Code § 26.09.

<sup>20</sup> Tex. Tax Code § 26.08(d).

<sup>21</sup> Tex. Tax Code § 26.09(e).

<sup>22</sup> Tex. Tax Code § 26.16.

<sup>23</sup> [sos.state.tx.us/elections/voter/2017-important-election-dates.shtml](http://sos.state.tx.us/elections/voter/2017-important-election-dates.shtml).

<sup>24</sup> Tex. Tax Code § 26.01(a).

**Order a TRE:** If a board orders the TRE at the same meeting as the adoption of the tax rate, the board may order the election as early as **August 5, 2017**. If a board adopts the tax rate on **August 5**, or by **August 8, 2017**, at the latest, it will not be required to conduct the TRE on the November uniform election date.

The legal deadline to order a TRE depends on the date the election will be held. The “blackout period” in Texas Election Code section 41.001(c) does not apply to school district TREs. Thus, a district may hold an election on a date other than the November uniform election date in accordance with Texas Tax Code section 26.08(b) if the November date does not fall within the 30 to 90 day window for ordering the TRE. Districts that want to conduct their TRE on a date other than the November uniform election date must order the TRE at least **62 days prior to election day**.<sup>25</sup>

If the district adopts its tax rate after August 8 the TRE must be held on the November 7, 2017, uniform election date, and the election must be ordered at least **78 days prior to that uniform date**, or no later than **August 21, 2017**.<sup>26</sup> Unlike districts using the early tax rate adoption method, districts following the traditional adoption method and adopting the tax rate based on the certified tax roll may not order a TRE with as few as 30 days’ notice.

**Conduct the TRE:** The following dates are provided as a guide and sample for districts seeking to conduct their TRE *on the earliest possible day outside of the November uniform election date*. As stated, districts that will have their TRE on the November uniform election date should refer to the Texas Secretary of State’s calendar and regular election procedures for conducting their election.<sup>27</sup>

Action	Timeline
Order TRE	August 5, 2017
Provide notice of election to county clerk & voter registrar <sup>28</sup>	Not later than the 60th day before election day
Notice of election published in newspaper <sup>29</sup>	Not earlier than 30 days or later than 10 days before election day
Notice of election posted on bulletin board <sup>30</sup>	Not later than the 21st day before election day
Deadline for applications for ballots by mail <sup>31</sup>	11th day before election day
Period for early voting <sup>32</sup>	17th day before election day through the 4th day before election day
Last day to register to vote in election <sup>33</sup>	30th day before election day
Election day <sup>34</sup>	At least 62 days after order of election (October 6, 2017, if ordered on August 5)

<sup>25</sup> Tex. Elec. Code § 3.005(a).  
<sup>26</sup> Tex. Elec. Code § 3.005(c).  
<sup>27</sup> [sos.state.tx.us/elections/voter/2017-important-election-dates.shtml](http://sos.state.tx.us/elections/voter/2017-important-election-dates.shtml).  
<sup>28</sup> Tex. Elec. Code § 4.008(a).  
<sup>29</sup> Tex. Elec. Code §§ 4.003(a)(1), (c), .004.  
<sup>30</sup> Tex. Elec. Code § 4.003(b).  
<sup>31</sup> Tex. Elec. Code § 84.007(c).  
<sup>32</sup> Tex. Elec. Code § 85.001(a).  
<sup>33</sup> Tex. Elec. Code § 13.143.  
<sup>34</sup> Tex. Elec. Code § 3.005(a).

Action	Timeline
Canvass results of election <sup>35</sup>	8th day after election day through 11th day after election day

**The Final Tax Rate:** After the tax rate is adopted by the board and ratified by the voters, 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.<sup>36</sup> If voters do not ratify the adopted tax rate, the board may not adopt a tax rate that exceeds the rollback rate.<sup>37</sup> The appraisal roll with the amounts of tax entered as approved by the school board constitutes the district’s tax roll.<sup>38</sup>

**Submit Final Tax Information to County Assessor-Collector:** Each taxing unit located wholly or in part in a county must provide the unit’s adopted tax rate, M&O rate, the 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 of the various taxes.<sup>39</sup>

### **IMPORTANT REMINDERS FOR EITHER PROCESS**

We encourage districts to work closely with their counties in planning their TREs.

**Accessible Voting Systems Generally Required:** Even if the election is held on a non-uniform election date, the school district is still required to use accessible voting systems.<sup>40</sup> It is important that the district communicate its intent to conduct a TRE with the county or city, if applicable, as soon as possible to secure the use of accessible voting systems. A word of caution for districts attempting to conduct a TRE around the time of a uniform election—availability of accessible voting systems may be limited due to the fact that any available accessible voting systems will be occupied for some time prior to the election and after the election by counties and other political subdivisions conducting early voting and election day procedures.

Smaller counties and political subdivisions may be able to apply for exemptions from the requirement to provide accessible voting systems at each polling place.<sup>41</sup> The application deadline for such an exemption is 90 days before an election. For more information, contact the Secretary of State’s Elections Division at 800-252-VOTE (8683).

**Joint Election not Generally Required:** TREs are not required to be held jointly with other political subdivisions, unless the district chooses to hold its TRE at the same time as its trustee election in May or November. When both elections are held at the same time, the TRE will be subject to the same joint election requirements as the trustee election.<sup>42</sup>

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<sup>35</sup> Tex. Elec. Code § 67.003(a).  
<sup>36</sup> Tex. Tax Code § 26.09.  
<sup>37</sup> Tex. Tax Code § 26.08(d).  
<sup>38</sup> Tex. Tax Code § 26.09(e).  
<sup>39</sup> Tex. Tax Code § 26.16.  
<sup>40</sup> Tex. Elec. Code § 61.012.  
<sup>41</sup> Tex. Elec. Code § 61.013.  
<sup>42</sup> Tex. Educ. Code § 11.0581.

**Use of Public Funds for Campaigning:** Public funds cannot be used for political advertising or electioneering to support a TRE. School districts are permitted, however, to communicate with taxpayers by producing factual materials about the TRE, as well as information about the conduct of the election (date, polling sites, etc.), as long as there is no advocacy in the materials. For more information, see TASB Legal Services' guidance on [Campaign Speech During Elections](#)<sup>43</sup> and the [Texas Ethics Commission's guidance](#)<sup>44</sup> for school districts.

For more information on this and other school law topics, visit TASB School Law eSource online at [schoolawesource.tasb.org](http://schoolawesource.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.*

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<sup>43</sup> [tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Governance/documents/campaign\\_speech\\_during\\_elections\\_june14.pdf](http://tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Governance/documents/campaign_speech_during_elections_june14.pdf).

<sup>44</sup> *A Short Guide to the Prohibition against Using School District Resources for Political Advertising in Connection with an Election* (revised Sept. 1, 2009), [ethics.state.tx.us/pamphlet/B09pad\\_sch.pdf](http://ethics.state.tx.us/pamphlet/B09pad_sch.pdf).