



2018 Tax Ratification Election Information and Timelines

This memo outlines relevant deadlines and procedures for conducting a tax ratification election (TRE) in 2018, for both 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.¹ 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 information about TREs, a sample ballot, calculation worksheets, and other helpful resources on its [Truth-in-Taxation \(TNT\)](#) Website.²

TRE Requirement: Texas law requires school districts to calculate two tax rates—the effective rate and the rollback rate—after the district receives the certified appraisal roll or certified estimate of taxable value from the chief appraiser.³ 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).

According to the attorney general, the rollback tax rate calculation includes a maximum maintenance and operations (M&O) tax rate component and a current debt service tax rate component, which reflects the debt service tax rate of the current year rather than the

¹ tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Business/documents/adopt_budget_tax_early.aspx, tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Business/documents/adopt_budget_tax_traditional.aspx.

² comptroller.texas.gov/taxes/property-tax/truth-in-taxation/#skip-scroll.

³ Tex. Tax Code § 26.08.

preceding year. Consequently, the rollback rate effectively measures only the M&O component of the tax rate, and a district may not increase its M&O rate above the maximum M&O component without voter approval through a TRE.⁴

If a majority of the votes cast in a TRE 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.⁵

Exceptions to TRE Requirement: In some circumstances, a higher tax rate may be adopted without conducting a TRE. First, a district that has reduced its M&O rate one year may be able to raise its M&O rate the next 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.⁶

Next, some districts may be eligible for a higher rollback rate due to pollution control efforts as determined by the Texas Commission on Environmental Quality (TCEQ).⁷

Finally, the Texas Tax Code provides the following exception in case of disaster:

When increased expenditure of money by a school district is necessary to respond to a disaster, including a tornado, hurricane, flood, or other calamity, but not including a drought, that has impacted a school district and the governor has requested federal disaster assistance for the area in which the school district is located, an election is not required under this section to approve the tax rate adopted by the governing body *for the year following the year in which the disaster occurs*.⁸

Timing of TRE: A TRE must be conducted 30 to 90 days after the date the tax rate is adopted. If the **November 6, 2018** uniform election date falls within that period, a district must hold the TRE on the uniform election date.⁹ Consequently, a school district wanting to hold a TRE prior to the November uniform date should begin planning as soon as possible.

⁴ Op. Tex. Att'y Gen. No. KP-154 (2017), texasattorneygeneral.gov/opinions/opinions/51paxton/op/2017/kp0154.pdf.

⁵ Tex. Tax Code § 26.08(d).

⁶ Tex. Tax Code § 26.08(p).

⁷ Tex. Tax Code § 26.045.

⁸ Tex. Tax Code § 26.08(a) (emphasis added).

⁹ Tex. Tax Code § 26.08(b).

Ballot Language: The TRE ballot must include the adopted tax rate and the difference between that rate and the rollback rate, and must permit voting for or against the proposition:

Approving the ad valorem tax rate of \$_____ per \$100 valuation in (name of school district) for the current year, a rate that is \$_____ higher per \$100 valuation than the school district rollback tax rate, for the purpose of (description of purpose of increase).¹⁰

A sample ballot can be found on the Comptroller's TNT Website in the *Rollback Elections* section under *School Districts*.

TAX RATE ADOPTION PROCEDURES

Early Tax Rate Adoption: Districts have the option to adopt tax rates using the certified estimate of property value.¹¹ 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](#).¹² A school district using the early adoption process will adopt a tax rate *before* the budget and before receipt of the certified appraisal roll.

Traditional Tax Rate Adoption: Traditionally, school districts adopt their budgets and tax rates after receipt of the certified appraisal roll. 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](#).¹³

Notice Requirements: Districts using either tax rate adoption process must publish notice in compliance with specific statutory requirements and hold at least one public meeting to discuss and receive public input on the proposed tax rate.¹⁴ The notice of this meeting must be published not earlier than 30 days or later than 10 days prior to tax rate adoption. Additional information and notice forms are available on the Comptroller's TNT Website regarding *Notice Requirements* under *School Districts*.

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. 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 Texas Open Meetings Act (OMA).

¹⁰ Tex. Tax Code § 26.08(b).

¹¹ Tex. Tax Code § 26.05(g); Tex. Educ. Code § 44.004(j).

¹² tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Business/documents/adopt_budget_tax_early.aspx.

¹³ tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Business/documents/adopt_budget_tax_traditional.aspx.

¹⁴ Tex. Educ. Code § 44.004.

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 provided below are only a sample of the dates a district might use to adopt an early tax rate and conduct a TRE. A district must determine each applicable date or timeframe based on the actual date the district's tax rate is adopted. A district should review its final TRE calendar with local counsel to ensure accuracy.

Estimate of Tax Value: Chief appraisers must prepare and certify an estimate of taxable property value for school districts by **April 30**.¹⁵ The following sample dates assume receipt of the certified estimate of values on this last possible date.

Notice of Tax Rate: If a district wants to adopt its tax rate on the earliest possible date, the required notice of the meeting to discuss the tax rate should be published by **May 1, 2018**.

Adoption of Tax Rate: The board may conduct the meeting and adopt the tax rate as early as **May 11, 2018**, if the district complies with the statutory notice requirements and the OMA posting requirements.

Order a TRE: The board may order a TRE as early as **May 11, 2018**, at the 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 under the OMA.

Districts using the early tax rate adoption process are authorized to order a TRE with as few as 30 days' notice after adoption of the tax rate.¹⁶ 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.¹⁷ All other election requirements and deadlines are the same as those for traditional TREs. As a practical matter, it may be difficult to comply with all applicable requirements if a TRE is ordered only 30 days before election day. A district should work with local counsel to ensure compliance with all requirements.

Conduct and Canvass the TRE: The earliest date the district may hold the TRE is **June 10, 2018**, if the election is ordered on May 11, 2018; 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 10 may occur as early as **June 13, 2018** (3 days after election day).¹⁸

¹⁵ Tex. Tax Code § 26.01(e).

¹⁶ Tex. Elec. Code § 3.005(d).

¹⁷ Tex. Elec. Code § 4.008(b).

¹⁸ Tex. Elec. Code § 67.003(a).

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 take certain actions and are intended to assist districts that wish to conduct a TRE on a date *other than* the November uniform election date. A district planning to conduct a TRE on the November uniform election date should refer to the Texas Secretary of State Election Division's [November election calendar](#) for specific dates and other pertinent information.¹⁹

Certified Appraisal Roll: Chief appraisers must provide the certified appraisal roll for school districts by **July 25**.²⁰ The following sample dates assume receipt of the certified appraisal roll on this last possible date.

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

Adoption of Tax Rate: The board may conduct the meeting and adopt the tax rate as early as **August 5, 2018**, if the district complies with the statutory notice requirements and the OMA posting requirements.

Order a TRE: The board may order a TRE at the same meeting as the adoption of the tax rate, as long as both adopting the tax rate and ordering the election are included as separate items on the agenda posted under the OMA.

If a board adopts a tax rate no later than **August 7, 2018**, the district 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 thirty-day "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 if the November date does not fall within the 30 to 90 day window for ordering the TRE in accordance with Texas Tax Code section 26.08(b). A district that wants to conduct its TRE on a date other than the November uniform election date must order the TRE at least **62 days prior to election day**.²¹

¹⁹ sos.state.tx.us/elections/voter/2018-important-election-dates.shtml.

²⁰ Tex. Tax Code § 26.01(a).

²¹ Tex. Elec. Code § 3.005(a).

If a district adopts its tax rate **after August 7** the TRE *must* be held on the **November 6, 2018** uniform election date, and the election must be ordered at least **78 days prior to that uniform date**, or no later than **August 20, 2018**.²² 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 only as a guide and sample for a district seeking to conduct its TRE **on the earliest possible date other than the November uniform election date**. As stated, a district that will have its TRE on the November uniform election date should refer to the Texas Secretary of State's calendar and regular election procedures for conducting its election.

Action	Timeline
Order TRE	August 5, 2018
Provide notice of election to county clerk & voter registrar ²³	Not later than the 60th day before election day
Notice of election published in newspaper ²⁴	Not earlier than 30 days or later than 10 days before election day
Notice of election posted on bulletin board ²⁵	Not later than the 21st day before election day
Period for early voting ²⁶	17th day before election day through the 4th day before election day
Last day to register to vote in election ²⁷	30th day before election day
Election day ²⁸	At least 62 days after order of election (October 6, 2018, if ordered on August 5)
Canvass results of election ²⁹	3rd day after election day through the 11th day after election day

AFTER THE TRE

Final Tax Roll: Under either tax rate adoption process, 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.³⁰ If voters do not ratify the adopted tax rate, the board may not adopt a tax rate that

²² Tex. Elec. Code § 3.005(c).

²³ Tex. Elec. Code § 4.008(a).

²⁴ Tex. Elec. Code §§ 4.003(a)(1), (c), .004.

²⁵ Tex. Elec. Code § 4.003(b).

²⁶ Tex. Elec. Code § 85.001(a).

²⁷ Tex. Elec. Code § 13.143.

²⁸ Tex. Elec. Code § 3.005(a).

²⁹ Tex. Elec. Code § 67.003(a).

³⁰ Tex. Tax Code § 26.09.

exceeds the rollback rate.³¹ The appraisal roll with the amounts of tax entered as approved by the school board constitutes the district's tax roll.³²

Submit 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.³³

IMPORTANT REMINDERS

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.³⁴ 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 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 because all available accessible voting systems will be in use for some time prior to the election and after the election by counties and other political subdivisions conducting early voting and the election.

Smaller counties and political subdivisions may be able to apply for exemptions from the requirement to provide accessible voting systems at each polling place.³⁵ 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 holds 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.³⁶

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

³¹ Tex. Tax Code § 26.08(d).

³² Tex. Tax Code § 26.09(e).

³³ Tex. Tax Code § 26.16.

³⁴ Tex. Elec. Code § 61.012.

³⁵ Tex. Elec. Code § 61.013.

³⁶ Tex. Educ. Code § 11.0581.

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](#)³⁷ and the [Texas Ethics Commission's guidance](#)³⁸ for school districts, *A Short Guide to the Prohibition against Using School District Resources for Political Advertising in Connection with an Election* (revised Oct. 13, 2017).

For more information on this and other school law topics, visit TASB School Law eSource online at 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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³⁷ tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Governance/documents/campaign_speech_during_elections_june14.pdf.

³⁸ ethics.state.tx.us/pamphlet/Bpad_sch.html.