



Texas Association of School Boards

Legal Services

P.O. Box 400 • Austin, Texas 78767-0400 • 512.467.3610 • 800.580.5345 • legal.tasb.org • legal@tasb.org

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Adoption of Budget and Tax Rates in 2019

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Each year Texas school districts must adopt their budgets and tax rates under Texas Education Code sections 44.001 through 44.006 and Texas Tax Code chapter 26. The process is impacted this year by new legislation, notably House Bill 1495 and House Bill 3. This memo addresses some common questions surrounding the budget and tax rate adoption process in 2019. This memo *does not* address compensation increases required by House Bill 3; for more information, consult the Texas Education Agency's (TEA) [House Bill 3](#) resource page and the school district's attorney.

Budget adoption is addressed in TASB Policy CE(LEGAL), and tax rate adoption is addressed in TASB Policy CCG(LEGAL). These policies are being updated as part of TASB Policy Update 114 and will be issued to districts later this year.

Q. Are there any changes to the budget proposal process?

- A. Yes. Effective immediately, House Bill 1495 adds a new requirement for proposed budgets prepared by school districts. The bill amends Texas Local Government Code section 140.0045, which is the law that already requires school districts to include a line item indicating expenses related to newspaper notices. As amended, the statute requires proposed budgets to include a line item indicating expenditures for "directly or indirectly influencing or attempting to influence the outcome of legislation or administrative action, as those terms are defined in Section 305.002, Government Code." Both line items must allow "as clear a comparison as practicable between those expenditures in the proposed budget and actual expenditures for the same purpose in the preceding year." While Texas Government Code section 305.002 defines "legislation" and "administrative action," the chapter does not define "directly or indirectly" influencing legislation or administrative action.

A district may pay fees to organizations or associations that advocate on behalf of the district. It may be appropriate to include and disclose all or part of those expenses under this new requirement. Districts are encouraged to seek the advice of their school attorney in deciding whether and how to address the new statute in their proposed budgets.

Other than the requirements of HB 1495, the process to propose the budget has not changed.

Q. Are there changes to the Notice of Public Meeting to Discuss Budget and Proposed Tax Rate?

- A. There are no changes to the required notice and publication requirements before HB 3 becomes effective on September 1, 2019. After that time, references to the rollback tax rate are changed to the *voter-approval tax rate*. In addition, after September 1, 2019, the notice must include a statement that a school district may not increase its maintenance and operations (M&O) tax rate to create a surplus in M&O revenue for the purpose of paying debt service.

HB 3 includes transition language regarding the notice and publication requirements and the tax rate calculations under the bill:

Notwithstanding any provision of the Education Code, for the 2019 tax year, a school district that took action to comply with publication requirements under Section 44.004, Education Code, before the effective date of [HB 3] may amend the district's previously published notices to comply with the changes made to the district's permissible and proposed tax rates as a result of [HB 3] by posting those changes on the district's Internet website. A school district that complied with the law in effect at the time of the district's original publication may hold the district's scheduled public hearing as originally published. (SECTION 5.007)

Q. What is a district's tax rate under HB 3?

- A. Each school district's tax rate for 2019 is compressed under HB 3, and consists of up to three components:
- A district's tier one M&O tax rate is the lesser of \$1.00 or the total number of cents levied by the district for M&O in 2018 multiplied by the state compression percentage of 93 percent for the 2019-20 school year.
 - A district's enrichment (tier two) tax rate is the tax effort above the tier one tax rate and less than \$1.17.
 - The first eight cents are referred to as *golden pennies*.
 - The remaining nine cents are referred to as *copper pennies*. These are compressed in 2019 by the ratio of the guaranteed yield in 2018-19 and the guaranteed yield in 2019-20 under HB 3 ($\$31.95/49.28$ or 0.6483).

For additional information, see TEA [correspondence](#) regarding tax rate compression, dated June 11, 2019, and TEA's HB 3 in 30 [video](#) on tax rate changes.

Q. Does HB 3 change the calculation of a district's debt service tax rate?

- A. HB 3 makes no changes to the calculation of a district's debt service tax rate under Texas Education Code section 44.004(c)(5)(A)(ii)(b).

Q. Does HB 3 apply to a district's tax rate for 2019?

- A. Yes. According to Section 5.002 of HB 3, Texas Tax Code section 26.08, as amended, applies beginning with the 2019 tax year. Thus, a school district must calculate its voter-approval (formerly, rollback) tax rate for 2019 in accordance with that section, *regardless of whether the district has already calculated that rate or adopted a tax rate for 2019 before September 1.*

Q. What is a district's voter-approval rate for 2019?

- A. A district's voter-approval rate for 2019 will be the sum of the following:
- \$1.00 multiplied by the state compression percentage (93%);
 - The greater of
 - The district's tax effort for the 2018 tax year that exceeded \$1.00 less any required copper penny compression (described above); or
 - 4 cents; and
 - The district's current debt rate.

Q. Can a district hold a TRE in 2019?

- A. No, unless the district falls within a very limited exception. If a district's voter-approval tax rate under HB 3, excluding the district's current debt rate, for the 2019 tax year is equal to or exceeds \$0.97, the district may not adopt an M&O tax rate for 2019 that exceeds the district's voter-approval rate, excluding the district's current debt rate. However, a board that, before January 1, 2019, adopted a strategic plan that proposed an M&O tax rate for 2019 that exceeds the rate permitted under HB 3 may, subject to voter approval, adopt the rate proposed in the plan minus the amount of required tax rate compression. A district seeking to rely on this exception should consult its attorney.

Q. Can districts still do tax swaps?

- A. No. HB 3 specifically prohibits a school district from increasing its M&O tax rate to create a surplus in M&O tax revenue for the purpose of paying the district's debt service. If a district violates this provision, a taxpayer in the district is entitled to an injunction restraining the collection of taxes by the district.

As discussed above, after September 1, 2019, a statement regarding this prohibition must be included in the required **Notice of Public Meeting to Discuss Budget and Proposed Tax Rate**. Failure to include this statement may also result in an injunction of tax collection if the failure was not in good faith.

Additional Resources

Information and assistance, including sample notices, may be found on the Texas Comptroller's [Truth-in-Taxation \(TNT\)](#) Website.

Region 13 ESC publishes [state funding worksheets](#) to assist districts in making the required calculations.

Questions concerning truth-in-taxation requirements and tax rate calculations may be directed to the Comptroller's Property Tax Assistance Division at 512.305.9999 or 800.252.9121 (press 2), or by email at ptad.cpa@cpa.texas.gov. Questions regarding HB 3 may be submitted to TEA at HB3info@tea.texas.gov. Legal questions concerning truth-in-taxation may be directed to your school district's attorney or TASB Legal Services at 800.580.5345.

This document is continually updated, and references to online resources are hyperlinked, at tasb.org/services/legal-services/tasb-school-law-esource/business/documents/adoption-of-budget-and-tax-rates-in-2019.pdf. For more information on this and other school law topics, visit TASB School Law eSource at schoollawesource.tasb.org.

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