



## School District Budget and Tax Rate Adoption in 2020

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Each year Texas school districts adopt their budgets and tax rates under Texas Education Code sections 44.001 through 44.006 and Texas Tax Code chapter 26. This memo outlines the *traditional method* a school district uses in this process.<sup>1</sup> Under this method, a district adopts its budget and then its tax rate based on the certified appraisal roll. New laws passed by the 86th Legislature, including House Bill 3 (HB 3) (comprehensive school finance legislation) and Senate Bill 2 (SB 2) (comprehensive property tax legislation), change this process in 2020.

Budget adoption is addressed in TASB Policy CE(LEGAL), and tax rate adoption is addressed in TASB Policy CCG(LEGAL).

For a comprehensive timeline of important dates and deadlines, see TASB Legal Services' [Timeline for Budget/Tax Rate Adoption and Voter-Approval Tax Rate Elections](#). Some of the deadlines and information below may be different if a board intends to adopt a tax rate that exceeds its voter-approval tax rate. For information on voter-approval tax rate elections, see TASB Legal Service's [School District Voter-Approval Tax Rate Elections in 2020](#).

### **State Resources**

The Texas Comptroller's [Truth-in-Taxation \(TNT\) Website](#) provides information and assistance, including calculation worksheets, sample notices, and helpful videos.<sup>2</sup>

The comptroller's [Legal Resources Website](#) includes a Summary of SB 2 Deadlines and *Texas Property Tax Law Changes 2019*.

The Texas Education Agency (TEA) [House Bill 3 Website](#) provides HB 3 resources. TEA issued [correspondence](#) regarding 2020 Tax Rates and a [video](#) on Tax Compression Part 2 in January 2020. In addition, the commissioner of education adopted rules regarding TEA's data collection and calculation of each district's maximum compressed tax rate. 19 Tex. Admin. Code § 61.1000.

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<sup>1</sup> While the *early tax rate adoption process* under Texas Tax Code section 26.05(g) and Texas Education Code section 44.004(j), which allows a district to adopt its tax rate based on the certified *estimate* of property values before adopting its budget, remains in the law, changes to the tax rate calculation process and the requirement to conduct a VATRE on a uniform election date make it an impractical, if not impossible, option.

<sup>2</sup> According to the comptroller's office, truth-in-taxation resources and information are being updated to include legislative changes; users should confirm that any resources or information reflect current law.

Region 13 ESC publishes a [template to estimate state aid](#) that may assist districts in calculating their tax rates. [TASBO's Center for School Finance](#) provides resources for its members.

Questions concerning tax rate calculations and truth-in-taxation requirements may be directed to TEA's State Funding Division at 512.463.9238 or [sfinance@tea.texas.gov](mailto:sfinance@tea.texas.gov), or to the comptroller's Property Tax Assistance Division at 512.305.9999 or 800.252.9121 (press 2) or [ptad.cpa@cpa.texas.gov](mailto:ptad.cpa@cpa.texas.gov). Legal questions concerning truth-in-taxation should be directed to a district's attorney.

### **New Terminology**

Both HB 3 and SB 2 introduced new terminology to the tax rate adoption process:

- The *effective maintenance and operations rate* is now the *no-new-revenue maintenance and operations rate*;
- The *effective tax rate* is now the *no-new-revenue tax rate*;
- The *rollback tax rate* is now the *voter-approval tax rate (VATR)*;<sup>3</sup>
- A *tax ratification election* will now be referred to as a *voter-approval tax rate election (VATRE)*;<sup>4</sup> and
- Each district will have its own *maximum compressed tax rate (MCR)* determined by TEA. A district's MCR (or tier one tax rate) is the rate for the current tax year per \$100 of taxable property value at which the district must levy a maintenance and operations (M&O) tax to receive its full tier one allotment under the Foundation School Program.<sup>5</sup>

### **Adoption Process**

**1. Propose a budget:** Texas Education Code section 44.002 requires the superintendent to prepare or cause to be prepared a proposed budget by a date set by the State Board of Education:

- Districts with a July 1 fiscal year: June 19.
- Districts with a September 1 fiscal year: August 20.<sup>6</sup>

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<sup>3</sup> Tex. Tax Code § 1.045

<sup>4</sup> Tex. Tax. Code § 26.08. See *Voter-Approval Tax Rate Election Ballot for School Districts* on the comptroller's TNT Website at *Rollback Elections* under *School Districts*.

<sup>5</sup> Tex. Educ. Code § 48.2551.

<sup>6</sup> Tex. Educ. Code § 44.002; 19 Tex. Admin. Code 109.1, .41; Tex. Educ. Agency, [Financial Accountability System Resource Guide](#) (FASRG), *Module 1, Financial Accounting and Reporting*, section 1.1.3, p. 14, and *Module 4, Auditing*, section 4.6.4, Exhibit 1, p. 54 (2019).

**2. Propose a tax rate:** By July 25, the chief appraiser must prepare and certify to the district's tax assessor the appraisal roll of the district's taxable property value. If the appraisal review board has not approved the appraisal records by July 20, the chief appraiser must prepare and certify to the tax assessor an *estimate* of the district's taxable property value by July 25. On receipt, the assessor determines the total appraised value, total assessed value, and total taxable value of property in the district, and submits the appraisal roll to the board by August 1 or as soon thereafter as practicable.<sup>7</sup> After the assessor submits the appraisal roll to the board, an officer or employee designated by the board calculates the district's no-new-revenue tax rate and VATR. If the assessor receives a certified estimate, the designated district officer or employee calculates the required rates using the certified estimate.<sup>8</sup> The designated officer or employee must also electronically incorporate specific information regarding district tax rates and the public hearing on the tax rate into the property tax database maintained by the chief appraiser.<sup>9</sup>

A district's tax rate comprises two components that must be approved separately:<sup>10</sup>

- the interest and sinking fund (I&S) tax rate (also referred to as the debt service tax rate), which generates funds required to service the district's debt; except in very limited circumstances, a district's maximum I&S rate is \$0.50.<sup>11</sup>
- the M&O tax rate, which generates the district's local share of funds for maintenance and operations expenditures<sup>12</sup>; a district's M&O rate may not exceed the sum of the district's MCR (tier 1 tax rate) and \$0.17 (tier 2 pennies).<sup>13</sup>

By August 5, TEA will provide each district's MCR based on data collected from the district regarding taxable property values and local exemption amounts for the preceding and current tax years.<sup>14</sup>

A district with a July 1 fiscal year may publish its Notice of Public Meeting to Discuss Budget and Proposed Tax Rate (Texas Comptroller's Form 50-280), discussed below, based on the certified estimate of property values if the district does not receive the certified appraisal roll on or before June 7. Because such a district will not have its MCR from TEA at the time

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<sup>7</sup> Tex. Tax Code § 26.01(a), (a-1), .04(a)-(b).

<sup>8</sup> Tex. Tax Code § 26.04(c), (c-2).

<sup>9</sup> Tex. Tax Code § 26.17(e). School districts located wholly or primarily in an appraisal district established in a county with a population of 200,000 or more must comply with this beginning with the 2020 tax year; school districts located wholly or primarily in an appraisal district established in a county with a population of less than 200,000 must comply with this beginning with the 2021 tax year.

<sup>10</sup> Tex. Tax Code § 26.05(a).

<sup>11</sup> Tex. Educ. Code §§ 44.004(c)(5)(A)(ii)(a), 45.0031

<sup>12</sup> Tex. Educ. Code §§ 44.004(c)(5)(A)(ii)(b), 45.003(d).

<sup>13</sup> Tex. Educ. Code § 45.003(d).

<sup>14</sup> 19 Tex. Admin. Code § 61.1000(

of publication, the district can use the statewide compression rate (\$0.9164 for 2020<sup>15</sup>) to calculate a maximum tier one tax rate and add the desired number of tier two pennies for purposes of the required notice.<sup>16</sup>

The comptroller's TNT Website provides information and worksheets at *Tax Rate Calculations and Worksheets*.

- 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. When the budget is prepared, the president calls the meeting.<sup>17</sup>
- 4. Publish Notice of Public Meeting to Discuss Budget and Proposed Tax Rate:** The president provides for publication of the notice. At least 10 but not more than 30 days before the date of the hearing, the district must publish the Notice of Public Meeting to Discuss Budget and Proposed Tax Rate (Texas Comptroller's Form 50-280) in strict compliance 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), and (c-2). Additional information and notice forms are available on the comptroller's TNT Website regarding *Notice Requirements* under *School Districts*.
  - 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.
  - The notice must be at least one-quarter page of a standard-size or tabloid-size newspaper, and the headline must be in 18-point or larger type.
  - In addition to other required information and calculations, the notice must state that a district may not increase its M&O tax rate to create a surplus in M&O tax revenue for the purpose of paying the district's debt service.<sup>18</sup>
  - All districts must publish the notice and hold the public meeting, regardless of whether the tax rate is increasing, decreasing, or remaining the same.

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<sup>15</sup> Tex. Educ. Agency, *To the Administrator Addressed Letter Re: House Bill 3 (HB 3) Implementation: 2020 Tax Rate Changes* (Jan. 9, 2020).

<sup>16</sup> Tex. Educ. Code § 44.004(h)-(i); 45 Tex. Reg. 2410, 2412 (2020) (preamble to adoption of 19 Tex. Admin. Code § 61.1000) (Tex. Educ. Agency).

<sup>17</sup> Tex. Educ. Code § 44.004.

<sup>18</sup> Tex. Educ. Code § 44.004(c-2). Texas Education Code section 45.0021(a) expressly prohibits a 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 prohibition, a district taxpayer is entitled to an injunction restraining the collection of taxes by the district. Tex. Educ. Code § 45.0021(b).

- If a district does not comply with the notice requirements and the failure to comply was not in good faith, a district taxpayer is entitled to an injunction restraining the collection of taxes by the district.<sup>19</sup>

**5. Post notice as required by the Texas 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 time the Notice of Public Meeting to Discuss Budget and Proposed Tax Rate 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.<sup>20</sup> [See below regarding other website posting requirements.]

- 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.<sup>21</sup>
- A district's proposed budget must include a line item indicating expenditures for the following:
  - publication of legally-required newspaper notices [see TASB Legal Services' [Required Newspaper Publication of Notices by School Districts](#)]; and
  - directly or indirectly influencing or attempting to influence the outcome of legislation or administrative action.

The 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.<sup>22</sup>

- A district that is required to provide accelerated instruction under Texas Education Code section 29.081(b-1) must separately budget sufficient funds, including funds under the compensatory education allotment, for that purpose.<sup>23</sup>
- Districts are not required to post the summary in a specific format; however, Region 12 ESC offers a [template](#).

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<sup>19</sup> Tex. Educ. Code § 44.004(e).

<sup>20</sup> Tex. Educ. Code § 44.0041.

<sup>21</sup> Tex. Educ. Code § 44.0041.

<sup>22</sup> Tex. Loc. Gov't Code § 140.0045

<sup>23</sup> Tex. Educ. Code § 29.081(b-2)

7. **Conduct the public meeting:** After giving notice of the public meeting (see steps 4 & 5), the board holds the meeting to discuss the budget and proposed tax rate. Any taxpayer in the district may be present and participate in the meeting.<sup>24</sup> The board may hear public comments, discuss, and then vote to adopt the budget and tax rate in the same public meeting if properly posted under the OMA.
8. **Adopt the budget:** The board must adopt the budget *before* the tax rate,<sup>25</sup> thus, if the two are being adopted at the same meeting, the board must 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. Public funds of the district may not be spent in any manner other than as provided in the adopted budget.<sup>26</sup>

9. **File the budget with TEA:** After adoption, the budget must be filed with TEA through PEIMS.<sup>27</sup>
10. **Post the adopted budget:** The final adopted budget must be posted on the district's website. The website must prominently display the electronic link to the adopted budget. The district must maintain the adopted budget on the website for three years after adoption.<sup>28</sup> The statute does not address posting requirements for amendments to the budget.

Districts are not required to post the final budget in a specific format; however, Region 12 ESC offers a [template](#).

11. **Adopt the tax rate:** The board adopts a tax rate by ordinance or resolution. The vote must be separate from the vote adopting the budget.<sup>29</sup> 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 notices described above will suffice. If the board waits to adopt the tax rate at a later meeting, the board must provide proper OMA notice to adopt the final tax rate. Additional newspaper notice is not required in most cases. If the calculated I&S rate decreases after publication of the notice, a district need not republish notice nor conduct another meeting to discuss and adopt the budget and the proposed lower tax rate.<sup>30</sup>

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<sup>24</sup> Tex. Educ. Code § 44.004(f).

<sup>25</sup> Tex. Educ. Code § 44.004(g).

<sup>26</sup> Tex. Educ. Agency, [Financial Accountability System Resource Guide](#), *Module 4, Auditing*, section 4.6.4, Exhibit 1, p. 54 (2019); Tex. Educ. Code §§ 44.004(f), .006.

<sup>27</sup> Tex. Educ. Code § 44.005; Tex. Educ. Agency, [Financial Accountability System Resource Guide](#), *Module 1, Financial Accounting and Reporting*, section 1.1.3, p. 14 (2019).

<sup>28</sup> Tex. Educ. Code § 44.0051.

<sup>29</sup> Tex. Tax Code § 26.05(b).

<sup>30</sup> Tex. Educ. Code § 44.004(g-1).

A district with a July 1 fiscal year that uses the certified estimate to publish its required notice (Texas Comptroller's Form 50-280) may not adopt a tax rate before receiving the certified appraisal roll. After receiving the certified roll, the district must publish a revised notice and hold another meeting before adopting a tax rate that exceeds either the rate proposed in the notice using the estimate **or** the district's VATR based on the certified appraisal roll.<sup>31</sup>

- **Voter-Approval Tax Rate:** A district's VATR is the sum of the following:
  - the district's MCR for the current year;
  - the greater of
    - the district's enrichment tax rate (tier 2 pennies) for the preceding year; or
    - \$0.05; and
  - the district's current debt rate.

For the 2020 tax year, a district must substitute \$0.04 for \$0.05 in the formula above if the board does not adopt its M&O tax rate **by unanimous vote**.<sup>32</sup> TASB Legal Services interprets the unanimous vote requirement to apply to the board members present at the meeting to adopt the tax rate.

- **Deadline to Adopt Tax Rate and Order VATRE, if required:** Unless a district will conduct a VATRE, the board must adopt a tax rate before the later of September 30 or 60 days after receiving the certified appraisal roll. A VATRE must be held on a uniform election date, and the deadline to order an election on a uniform election date is not later than the 78th day before election day.<sup>33</sup> Because this deadline will fall in mid-August for an election on the November uniform election date, a district that anticipates holding a VATRE must begin planning well in advance to ensure it complies with all notice and meeting requirements to adopt its budget and tax rate before ordering a VATRE.
  - A district notified by the commissioner of education that its local revenue level exceeds its entitlement may not adopt its tax rate until the commissioner certifies that the district has reduced its local revenue level to the level established under Texas Education Code 48.257.<sup>34</sup>
  - If the board does not adopt a tax rate before the deadline, the district's tax rate for that tax year is the lower of the no-new-revenue tax rate calculated for that tax year or the district's tax rate for the preceding tax year. A tax rate established in this way is

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<sup>31</sup> Tex. Educ. Code § 44.004(i).

<sup>32</sup> Tex. Tax Code § 26.08(n), (n-1).

<sup>33</sup> Tex. Tax Code § 26.08(b); Tex. Elec. Code § 3.005(c). Although Texas Tax Code section 26.05(a) states that a board must adopt a rate that exceeds the VATR not later than the 71st day before the next November uniform election date, Texas Election Code section 3.005 specifically supersedes a law outside the Election Code to the extent of any conflict. Therefore, TASB Legal Services advises that a district follow the deadlines in the Texas Election Code to ensure a valid election.

<sup>34</sup> Tex. Educ. Code § 49.004(c).

treated as an adopted tax rate. Before the fifth day after the establishment of a tax rate, the board must ratify the applicable tax rate in the manner required by Texas Tax Code section 26.05(b) (regarding the ordinance or resolution, motion, and vote).<sup>35</sup>

- **Motion:** The following motion is *required* to adopt a tax rate that exceeds a district's no-new-revenue 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 no-new-revenue tax rate) percent increase in the tax rate."<sup>36</sup>

- **Vote:** The vote to set a tax rate that exceeds the sum of the no-new-revenue M&O tax rate and the current debt rate must be a record vote with at least 60% of the members of the board (5 members of a 7-member board) voting in favor of the ordinance or resolution.<sup>37</sup>
- **Additional Notice and Website Requirements:** If a board adopts a tax rate that, if applied to total taxable value, will impose an amount of M&O taxes that exceeds the amount of M&O taxes imposed in the prior year or that exceeds the no-new-revenue M&O tax rate, the ordinance or 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 regarding *Hearing Requirements at Ordinance, Resolution, or Order*, for more information and specific wording.

**12. Conduct VATRE, if required:** With limited exceptions, if the board adopts a tax rate above the district's VATR, it must hold an election for voters to approve that rate. 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, the board may not adopt a tax rate for the current year that exceeds the VATR. For more information on VATREs, please refer to TASB Legal Services' [School District Voter-Approval Tax Rate Elections in 2020](#). The comptroller's TNT Website offers additional information about VATRE procedures, including a sample election ballot, at *Rollback Elections* under *School Districts*.

**13. Approve final tax roll:** On receipt of notice of the tax rate for the current year, the assessor will calculate the tax imposed on each property on the appraisal roll, enter the amount of tax in the appraisal roll, and submit it to the board for approval. This appraisal roll approved by the board constitutes the district's tax roll.<sup>38</sup>

**14. Submit tax information to County Assessor-Collector:** A district must provide to each county in which it is located the district's adopted tax rate, M&O rate, debt rate, no-new-revenue tax rate, no-new-revenue M&O rate, and VATR. The county assessor-collector must post the

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<sup>35</sup> Tex. Tax Code § 26.05(c).

<sup>36</sup> Tex. Tax Code § 26.05(b).

<sup>37</sup> Tex. Tax Code § 26.05(b).

<sup>38</sup> Tex. Tax Code § 26.09(e).



information on the county's website in a *Truth in Taxation Summary* table, which will include definitions for the various taxes and other info.<sup>39</sup>

**15. Post Tax Rate and Budget Information on the District Website:** Each district must maintain a website or have access to a generally accessible website on which the district must post the following information in the format prescribed by the comptroller:

- the name of each board member;
- the mailing address, email address, and telephone number of the district;
- the official contact information for each board member, if that information is different from the information described above;
- the district's budget for the preceding two years;
- the district's proposed or adopted budget for the current year;
- the change in the amount of the district's budget from the preceding year to the current year, by dollar amount and percentage;
- the M&O tax rate adopted by the district for the preceding two years;
- the I&S tax rate adopted by the district for the preceding two years;
- the M&O tax rate proposed by the district for the current year;
- the I&S tax rate proposed by the district for the current year; and
- the most recent financial audit of the district.<sup>40</sup>

Much of this information also must be posted under other laws. A district should consider whether duplicate postings of particular information are necessary to comply with all applicable statutes.

For additional questions concerning adopting a budget or tax rate, please contact TEA, the Texas Comptroller, your 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/school-district-budget-and-tax-rate-adoption.pdf](https://tasb.org/services/legal-services/tasb-school-law-esource/business/documents/school-district-budget-and-tax-rate-adoption.pdf). For more information on this and other school law topics, visit TASB School Law eSource at [schoollawesource.tasb.org](https://schoollawesource.tasb.org).

<sup>39</sup> Tex. Tax Code § 26.16.

<sup>40</sup> Tex. Tax Code § 26.18. School districts located wholly or primarily in an appraisal district established in a county with a population of 200,000 or more must comply with this beginning with the 2020 tax year; school districts located wholly or primarily in an appraisal district established in a county with a population of less than 200,000 must comply with this beginning with the 2021 tax year.

*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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