School District Budget and Tax Rate Adoption in 2023

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NOTE REGARDING SB 2 (2nd Called Session, 2023): Senate Bill 2 was passed by the legislature during the second called session and signed by the governor on July 22, 2023. The bill does several things to provide tax relief, including further compression of school district tax rates and increasing the school district homestead exemption from $40,000 to $100,000. The latter change requires voter approval of an amendment to the Texas Constitution. Although the effectiveness of much of SB 2 hinges on the approval of the constitutional amendment, the bill requires that tax rates be calculated and that tax bills be prepared and sent as if the changes in law made by SB 2 were in effect for tax year 2023.

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 process school districts must follow.

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. For a detailed explanation of each tax rate a district must calculate and required website postings, see TASB Legal Services’ School District Tax Rates and Website Posting Requirements. TASB Legal Services offers sample resolutions a district may use to adopt its tax rate.

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 2023.

State Resources

The Texas Comptroller’s Truth-in-Taxation (TNT) website provides information and assistance, including calculation worksheets and forms.

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 related resources for its members.
Questions about 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, or to the comptroller’s Property Tax Assistance Division at 512.305.9999 or 800.252.9121 (press 2) or ptad.cpa@cpa.texas. Legal questions concerning truth-in-taxation should be directed to a district’s attorney.

**Adoption Process**

1. **Propose 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 (July 1 districts): June 19.
   - Districts with a September 1 fiscal year (September 1 districts): August 20.\(^1\)

2. **Calculate tax rates:** 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.\(^2\) 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 voter-approval tax rate (VATR) using tax rate calculation forms prescribed by the comptroller.\(^3\) If the assessor receives a certified estimate, the designated district officer or employee calculates the required rates using the certified estimate.\(^4\) The designated officer or employee also must calculate other tax rates, including the no-new-revenue maintenance and operations tax rate and the rate to maintain the same amount of state and local revenue per weighted student that the district received in the prior school year.

As soon as practicable after the designated officer or employee calculates the no-new-revenue tax rate and the voter-approval tax rate of the district, the designated officer or employee must submit the tax rate calculation forms to the county assessor-collector for each county in which the district is located.\(^5\) The designated officer or employee also must electronically incorporate specific information regarding district tax rates and the public meeting on the tax rate into the property tax database maintained by the chief appraiser.\(^6\)

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\(^2\) Tex. Tax Code §§ 26.01(a), (a-1), .04(a)-(b).

\(^3\) Tex. Tax Code §§ 5.07(f), 26.04(d-1). The comptroller’s TNT website provides information and worksheets at Tax Rate Calculations and Worksheets. Although the Tax Code does not specify how the board designates the officer or employee to calculate the tax rates, at a minimum, board meeting minutes should reflect the designation.

\(^4\) Tex. Tax Code § 26.04(c), (c-2).

\(^5\) Tex. Tax Code § 26.04(d-3).

\(^6\) Tex. Tax Code § 26.17(e).
A district’s adopted tax rate comprises two components that must be approved separately:

- 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.
- the maintenance and operations (M&O) tax rate, which generates local funds for M&O expenditures; a district’s M&O rate may not exceed the sum of the district’s maximum compressed tax rate (MCR) (tier 1 tax rate) and $0.17 (tier 2 pennies).

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.

3. Plan and publish notice of the budget and proposed tax rate meeting: When the budget has been prepared, the president calls a meeting of the board to adopt the budget. The president also provides for publication of the Notice of Public Meeting to Discuss Budget and Proposed Tax Rate. 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 Texas Education Code section 44.004. Form 50-280 is 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.

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7 Tex. Tax Code § 26.05(a).
10 19 Tex. Admin. Code § 61.1000. TEA’s Tax Rate and MCR Template is available on its State Funding webpage. See Tex. Educ. Agency, To the Administrator Addressed Letter Re: Preliminary Maximum Compressed Tax Rate (MCR) and Adoption of Tax Rate for Tax Year 2023, Aug. 3, 2023.
11 The board is not required to meet and adopt the proposed tax rates to be published.
12 Tex. Educ. Code § 44.004(c-2); see also Tex. Educ. Code § 45.0021 (expressly prohibiting a district from levying its maintenance tax at a rate intended to create a surplus in M&O tax revenue for the purpose of paying the district’s debt service and imposing consequences for violation).
• The notice must also include the statement, “Visit Texas.gov/PropertyTaxes to find a link to your local property tax database on which you can easily access information regarding your property taxes, including information about proposed tax rates and scheduled public hearings of each entity that taxes your property.”\(^\text{13}\)

• All districts must publish the notice and hold the public meeting, regardless of whether the tax rate is increasing, decreasing, or remaining the same.

• 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.\(^\text{14}\)

**All districts use comptroller’s Form 50-280** to publish a single, unified Notice of Public Meeting to Discuss Budget and Proposed Tax Rate.\(^\text{15}\) Posting the single notice of Form 50-280 does not require a district to adopt its budget and tax rate in the same meeting. In fact, the notice specifically states, as required by Texas Education Code section 44.004(c)(1), “The tax rate that is ultimately adopted at this meeting or at a separate meeting at a later date may not exceed the proposed rate shown below unless the district publishes a revised notice containing the same information and comparisons set out below and holds another public meeting to discuss the revised notice.” In other words, the board may adopt a tax rate at a later meeting without republishing notice as long as it does not exceed the rate proposed in the original notice.

Because a **July 1 district** must adopt its budget no later than June 30, it may publish its Notice of Public Meeting to Discuss Budget and Proposed Tax Rate based on the chief appraiser’s April certified estimate if the district does not receive the certified appraisal roll by June 7.\(^\text{16}\) Because a July 1 district will not have its MCR from TEA when it publishes notice, a district can use its MCR estimated in its state aid template and add the desired number of tier two pennies for the purpose of publishing notice.\(^\text{17}\) A July 1 district will have to publish a revised notice before adopting its tax rate if the district intends to adopt a tax rate that exceeds the original proposed rate or the district’s voter-approval tax rate based on the certified appraisal roll.\(^\text{18}\)

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\(^{\text{13}}\) Tex. Educ. Code § 44.004(c)(1).

\(^{\text{14}}\) Tex. Educ. Code § 44.004(e).

\(^{\text{15}}\) Although the comptroller’s TNT website includes separate notice forms (50-777 and 50-786) for the meeting to discuss the budget and the meeting to discuss the tax rate, these forms were created for use by a district following the former “early adoption method” of adopting its tax rate first based on the certified estimate of property values provided in April and its budget later. This method is no longer a viable option for any district because every district must wait to adopt its tax rate until TEA provides the district’s MCR.

\(^{\text{16}}\) Tex. Educ. Code § 44.004(h)-(i).

\(^{\text{17}}\) See Tex. Educ. Code § 48.2551 (a district’s MCR is the lesser of the district’s prior year MCR, the state compression rate, or the rate determined by a statutory formula if the district’s taxable property value for the current year exceeds the district’s prior year value by at least 2.5 percent).

\(^{\text{18}}\) Tex. Educ. Code § 44.004(i).
4. **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.\(^{19}\)

- 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.\(^{20}\)

- 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.\(^{21}\)

- A district that is required to provide accelerated instruction under Texas Education Code section 29.081(b-2) must separately budget sufficient funds, including funds under the compensatory education allotment, for that purpose.\(^{22}\)

- Districts are not required to post the summary in a specific format; however, Region 12 ESC offers a template.\(^{23}\)

5. **Post notice under 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. **Hold the public meeting:** After giving notice of the public meeting, 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.\(^{23}\) 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. Although some boards hold separate meetings to take public comments (a “public hearing”) and then adopt the budget or tax rate, separate meetings are not required.

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\(^{19}\) Tex. Educ. Code § 44.0041.


\(^{21}\) Tex. Loc. Gov’t Code § 140.0045.


\(^{23}\) Tex. Educ. Code § 44.004(f).
7. **Adopt the budget:** The board must adopt the budget *before* the tax rate. 24 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 for July 1 districts and no later than August 31 for September 1 districts. Public funds of the district may not be spent in any manner other than as provided in the adopted budget. 25

The board must include as an appendix to the district’s budget the tax rate calculation forms used by the district’s designated officer or employee to calculate the district’s no-new-revenue tax rate and voter-approval tax rate. 26

8. **File the budget with TEA:** After adoption, the district must file the budget with TEA through PEIMS. 27

9. **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. 28 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](#). See TASB Legal Service’s [School District Tax Rates and Website Posting Requirements](#) for additional extensive website posting requirements.

10. **Adopt the tax rate:** The board adopts a tax rate by order, ordinance, or resolution. The vote must be separate from the vote adopting the budget. 29 [TASB Legal Services’ offers sample resolutions.] As stated previously, the board may adopt the budget and tax rate, in that order, at the same meeting. If the board waits to adopt the tax rate at a later meeting, the board must provide proper OMA notice of that meeting. As discussed in item 3. above, 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. 30

   A July 1 district that uses the April certified estimate to publish its required notice may not adopt a tax rate before receiving the certified appraisal roll. 31

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24 Tex. Educ. Code § 44.004(g).
26 Tex. Tax Code §26.04(c), (d-1), (e-5).
29 Tex. Tax Code § 26.05(b).
30 Tex. Educ. Code § 44.004(g-1).
31 Tex. Educ. Code § 44.004(i).
If the board did not append the tax rate calculation forms used by the district’s designated officer or employee to calculate the district’s no-new-revenue tax rate and voter-approval tax rate when the budget was adopted, the board may do so at the meeting to adopt the tax rate. (See item 7. above.)

- **Deadline to adopt tax rate and order voter-approval tax rate election (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.\(^{32}\) 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 section 48.257.\(^{33}\)
  - 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 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 order, ordinance, or resolution, motion, and vote).\(^{34}\)

- **Required 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.”\(^{35}\)

- **Supermajority 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 order, ordinance, or resolution.\(^{36}\)

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\(^{32}\) 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 Texas 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.

\(^{33}\) Tex. Educ. Code § 49.004(c).

\(^{34}\) Tex. Tax Code § 26.05(c).

\(^{35}\) Tex. Tax Code § 26.05(b).

\(^{36}\) Tex. Tax Code § 26.05(b).
- **Required language in ordinance, resolution, or order and on the district’s website:** If a board adopts a tax rate that, if applied to the 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 will do this and exceeds the *no-new-revenue M&O tax rate*, the order, ordinance, or resolution and the district’s website must contain special notice provisions indicating an increase. See TASB Legal Services’ School District Tax Rates and Website Posting Requirements and sample resolutions, Texas Tax Code section 26.05(b), TASB Policy CCG(LEGAL), and the comptroller’s TNT website regarding Hearings Requirements at Ordinance, Resolution, or Order, for more information and specific wording.

11. **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, see TASB Legal Services’ School District Voter-Approval Tax Rate Elections in 2023. The comptroller’s TNT website offers additional information about VATRE procedures, including a sample election ballot, at Elections to Approve Tax Rate under School Districts.

12. **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.\(^{37}\)

13. **Post budget and tax rate information on district website and submit it to county assessor-collector and appraisal district database:** A district must post specific information regarding its budget and tax rate on its website. A district must also provide specific rate information to the county assessor-collector for each county in which the district is located for posting on the county’s website. The district’s designated officer or employee must submit the tax rate calculation forms and other information to the appraisal district database maintained by the chief appraiser for each appraisal district.\(^{38}\) [For specific information on these requirements, see TASB Legal Services’ School District Tax Rates and Website Posting Requirements.]

For additional questions about adopting a budget or tax rate, please contact TEA, the Texas Comptroller, your district’s attorney, or TASB Legal Services at 800.580.5345.

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\(^{37}\) Tex. Tax Code § 26.09(e).

\(^{38}\) Tex. Tax Code §§ 26.16-.18.
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