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. 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).

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 deadlines and information on voter-approval tax rate elections, see TASB Legal Service’s School District Voter-Approval Tax Rate Elections in 2020.

State Resources

Information and assistance, including calculation worksheets, sample notices, and helpful videos, can be found on the Texas Comptroller’s Truth-in-Taxation (TNT) Website.

The comptroller’s Legal Resources Website includes a Summary of SB 2 Deadlines and Texas Property Tax Law Changes 2019.

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1 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.

2 Texas Education Code section 44.004 still provides an alternative for districts with a July 1 fiscal year. These districts may use the certified estimate of taxable property values to prepare the required notice if the district does not receive the certified appraisal roll on or before June 7. The district may adopt a budget at the meeting designated in this notice, but the district may not adopt a tax rate until the district receives the certified appraisal roll. The district may be required to publish a revised notice and hold a second meeting to adopt a tax rate if certain circumstances exist. Tex. Educ. Code § 44.004(h)-(i).

3 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.

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, 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. 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, including the following:

- 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);⁴
- A tax ratification election will now be referred to as a voter-approval tax rate election (VATRE)⁵; and
- Each district will have its own maximum compressed tax rate (MCR) determined by TEA. A district’s MCR is the rate for the current tax year per $100 of taxable property value at which a district must levy a maintenance and operations (M&O) tax to receive the full amount of the district’s tier one allotment under the Foundation School Program.⁶

**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:

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⁴ Tex. Tax Code § 1.045
• Districts with a July 1 fiscal year: June 19.
• Districts with a September 1 fiscal year: August 20.7

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 (ARB) 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.8 After the assessor submits the appraisal roll to the board, an officer or employee designated by the board calculates the no-new-revenue tax rate and the VATR for the district. If the assessor receives a certified estimate, the designated district officer or employee calculates the required rates using the certified estimate.9 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.10

A district’s tax rate comprises two components that must be approved separately:11

• 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; a district’s I&S rate is capped at $0.50.12
• the M&O tax rate, which generates the district’s local share of funds for maintenance and operations expenditures13; a district’s M&O rate may not exceed the sum of $0.17 and the district’s MCR.14

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

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8 Tex. Tax Code § 26.01(a), (a-1), .04(a)-(b).
9 Tex. Tax Code § 26.04(c), (c-2).
10 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.
11 Tex. Tax Code § 26.05(a).
12 Tex. Educ. Code §§ 44.004(c)(5)(A)(ii)(a), 45.0031
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.  

4. **Publish newspaper notice of public meeting:** 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 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.
   - 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.

5. **Post notice as required by the 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.

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15 Tex. Educ. Code § 44.004.
16 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).
17 Tex. Educ. Code § 44.004(e).
6. **Post a summary of the proposed budget:** At the time the Notice of Public Meeting to Discuss Budget and Proposed Tax Rate (step 4) 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.\(^\text{18}\) [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.\(^\text{19}\)

- **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.\(^\text{20}\)

- **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.**\(^\text{21}\)

- **Districts are not required to post the summary in a specific format; however, Region 12 ESC offers a template** for this purpose.

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.\(^\text{22}\) 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 budget must be adopted *before* the tax rate\(^\text{23}\); 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.

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\(^\text{18}\) Tex. Educ. Code § 44.0041.

\(^\text{19}\) Tex. Educ. Code § 44.0041.

\(^\text{20}\) Tex. Loc. Gov’t Code § 140.0045

\(^\text{21}\) Tex. Educ. Code § 29.081(b-2)

\(^\text{22}\) Tex. Educ. Code § 44.004(f).

\(^\text{23}\) Tex. Educ. Code § 44.004(g).
• 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.\textsuperscript{24}

9. File the budget with TEA: After adoption, the budget must be filed with TEA through PEIMS.\textsuperscript{25}

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.\textsuperscript{26} 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 for this purpose.

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.\textsuperscript{27} 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, but additional newspaper notice is not required in most cases.

• Deadline: The board must adopt a tax rate before the later of September 30 or 60 days after receiving the certified appraisal roll, except that Texas Tax Code section 26.05(a) now provides that a board must adopt a rate that exceeds the VATR not later than the 71st day before the next November uniform election date.\textsuperscript{28} The deadline to order an election on a uniform election date is not later than the 78th day before election day.\textsuperscript{29} TASB Legal Services recommends that a board adopt a tax rate that exceeds the VATR not later than the 78th day before election day so the board can timely order the required election. Given this deadline, which 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.

\textsuperscript{26} Tex. Educ. Code § 44.0051.
\textsuperscript{27} Tex. Tax Code § 26.05(b).
\textsuperscript{28} Tex. Tax Code § 26.05(a).
\textsuperscript{29} Tex. Elec. Code § 3.005(c)
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.  

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 ordinance or resolution, motion, and vote).  

- **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.”

- **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.

- **Voter-Approval Tax Rate:** A district’s VATR is the sum of the following:
  
  o the district’s MCR for the current year;
  
  o the greater of
    
    ▪ the district’s enrichment tax rate for the preceding year; or
    
    ▪ $0.05; and
  
  o 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. TASB Legal Services interprets the unanimous vote requirement to apply to the board members present at the meeting to adopt the tax rate.

- **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.

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30 Tex. Educ. Code § 49.004(c).
31 Tex. Tax Code § 26.05(c).
32 Tex. Tax Code § 26.05(b).
33 Tex. Tax Code § 26.05(b).
34 Tex. Tax Code § 26.08(n), (n-1).
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.

- **Changes to I&S Rate:** If the rate calculated for debt service (I&S rate) decreases after the initial notice publication, a district need not republish notice or conduct another meeting to discuss and adopt the budget and the proposed lower tax rate.\(^35\)

**12. Order and conduct a 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. A VATRE must be conducted on a uniform election date.\(^36\) 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 included 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.\(^37\)

**14. Submit tax information to County Assessor-Collector:** A district must provide to each county in which it is located wholly or in part, 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 information on the county’s website in a *Truth in Taxation Summary* table, which will include definitions for the various taxes and other info.\(^38\)

**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, e-mail 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;

\(^35\) Tex. Educ. Code § 44.004(g-1)
\(^36\) Tex. Tax Code § 26.08.
\(^37\) Tex. Tax Code § 26.09(e).
\(^38\) Tex. Tax Code § 26.16.
• 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.39

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.

39 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.