



## 2019 Tax Ratification Election Information and Timelines

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This memo outlines relevant deadlines and procedures for conducting a tax ratification election (TRE) in 2019 for both districts using the early tax rate adoption process and districts following the traditional method of budget and tax rate adoption. For more information on the early adoption process, see TASB's [Adoption of Budget and Tax Rates—Early Tax Rate Adoption](#); for more information on the traditional method, see TASB's [Adoption of Budget and Tax Rates—Traditional Method](#). The dates included in the TRE timelines are provided as a guide and starting point for district planning purposes only. A district should review its final TRE calendar with the district's attorney to ensure accuracy.

### [BACKGROUND INFORMATION](#)

### [TAX RATE ADOPTION PROCEDURES](#)

### [EARLY TAX RATE ADOPTION PROCESS AND TIMELINES](#)

### [TRADITIONAL TAX RATE ADOPTION PROCESS AND TIMELINES](#)

### [AFTER THE TRE](#)

### [IMPORTANT REMINDERS](#)

## **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.

**TRE Requirement:** In the process of adopting its tax rate, a district calculates several rates. Two are particularly relevant in determining whether a TRE is required—the effective maintenance and operations (M&O) tax rate and the rollback rate.<sup>1</sup> With limited exceptions, if a school board adopts a tax rate above its rollback 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 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 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.<sup>2</sup>

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<sup>1</sup> Tex. Tax Code § 26.08.

<sup>2</sup> Tex. Att'y Gen. Op. No. [KP-154](#) (2017).

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.<sup>3</sup>

**Exceptions:** In some circumstances, a higher tax rate may be adopted without conducting a TRE. First, when increased expenditures are necessary to respond to a disaster, including a tornado, hurricane, or flood, but not drought, that has impacted a district and the governor has requested federal disaster assistance for the area in which the district is located, a TRE is not required to approve the tax rate adopted by the board *for the year following the year in which the disaster occurs*.<sup>4</sup>

Next, 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 rollback tax rate for the current year will be calculated as if the district's prior-year adopted M&O rate were equal to its prior-year effective M&O rate.<sup>5</sup>

Finally, 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).<sup>6</sup>

**Timing:** A board must conduct a TRE 30 to 90 days after the date the tax rate is adopted. If the **November 5, 2019** uniform election date falls within that period, a district must hold the TRE on the uniform election date.<sup>7</sup> Consequently, a school district wanting to hold a TRE prior to the November uniform date should begin planning as soon as possible.

**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).<sup>8</sup>

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

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<sup>3</sup> Tex. Tax Code § 26.08(d).

<sup>4</sup> Tex. Tax Code § 26.08(a).

<sup>5</sup> Tex. Tax Code § 26.08(p).

<sup>6</sup> Tex. Tax Code § 26.045.

<sup>7</sup> Tex. Tax Code § 26.08(b).

<sup>8</sup> Tex. Tax Code § 26.08(b).

## **TAX RATE ADOPTION PROCEDURES**

**Early Tax Rate Adoption:** Districts have the option to adopt their tax rates using the certified estimate of property values.<sup>9</sup> 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](#). 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](#).

**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.<sup>10</sup> 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).

## **EARLY TAX RATE ADOPTION PROCESS AND TIMELINES**

As stated, a district may adopt its tax rate 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 the district's attorney to ensure accuracy.

**Estimate of Taxable Value:** The chief appraiser must prepare and certify to the district's tax assessor an estimate of the district's taxable property value by **April 30**.<sup>11</sup> The following sample dates assume receipt of the certified estimate of values on this 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, 2019**.

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<sup>9</sup> Tex. Tax Code § 26.05(g); Tex. Educ. Code § 44.004(j).

<sup>10</sup> Tex. Educ. Code § 44.004.

<sup>11</sup> Tex. Tax Code § 26.01(e).

**Adoption of Tax Rate:** The board may conduct the meeting and adopt the tax rate as early as **May 11, 2019**, 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, 2019**, 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 to be held as few as 30 day after adoption of the tax rate.<sup>12</sup> 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.<sup>13</sup> 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 the district's attorney to ensure compliance with all requirements.

**Conduct and Canvass the TRE:** The earliest date the district may hold the TRE is **June 10, 2019**, if the election is ordered on May 11, 2019. The canvass for an election on June 10 may occur as early as **June 13, 2019** (3 days after election day).<sup>14</sup>

### **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.

**Certified Appraisal Roll:** The chief appraiser must prepare and certify to the district's tax assessor the appraisal roll of the district's taxable property value by **July 25**.<sup>15</sup> The following sample dates assume receipt of the certified appraisal roll on this 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.

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<sup>12</sup> Tex. Elec. Code § 3.005(d).

<sup>13</sup> Tex. Elec. Code § 4.008(b).

<sup>14</sup> Tex. Elec. Code § 67.003(a).

<sup>15</sup> Tex. Tax Code § 26.01(a).

**Adoption of Tax Rate:** The board may conduct the meeting and adopt the tax rate as early as **August 5, 2019**, 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 6, 2019**, the district will *not* be required to conduct the TRE on the November uniform election date because that date will not fall within the 30 to 90 day window within which the TRE must be ordered after tax rate adoption.

The deadline to order a TRE depends on the date the election will be held. A board must order a TRE to be held on a date other than the November uniform election date at least **62 days prior to election day**.<sup>16</sup>

If a district adopts its tax rate **after August 6** the TRE *must* be held on the **November 5, 2019** uniform election date, and the election must be ordered at least **78 days prior to that date**, or no later than **August 19, 2019**.<sup>17</sup> Unlike districts using the early tax rate adoption method, districts following the traditional method and adopting the tax rate based on the certified appraisal roll may not order a TRE as few as 30 days before election day.

**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** (assuming receipt of the certified appraisal roll on July 25). As stated, a district that will have its TRE on the November uniform election date should refer to the Elections Division’s calendar and regular election procedures for conducting its election.

Action	Timeline
Order TRE	August 5, 2019
Provide notice of election to county clerk & voter registrar <sup>18</sup>	Not later than the 60th day before election day
Notice of election published in newspaper <sup>19</sup>	Not earlier than 30 days or later than 10 days before election day
Notice of election posted on bulletin board <sup>20</sup>	Not later than the 21st day before election day
Period for early voting <sup>21</sup>	17th day before election day through the 4th day before election day

<sup>16</sup> Tex. Elec. Code § 3.005(a).

<sup>17</sup> Tex. Elec. Code § 3.005(c).

<sup>18</sup> Tex. Elec. Code § 4.008(a).

<sup>19</sup> Tex. Elec. Code §§ 4.003(a)(1), (c), .004.

<sup>20</sup> Tex. Elec. Code § 4.003(b).

<sup>21</sup> Tex. Elec. Code § 85.001(a).

Action	Timeline
Last day to register to vote in election <sup>22</sup>	30th day before election day
Election day <sup>23</sup>	At least 62 days after order of election (October 6, 2019, if ordered on August 5)
Canvass election results <sup>24</sup>	3rd day after election day through the 11th day after election day

### **AFTER THE TRE**

**Final Tax Roll:** As stated above, if a majority of the voters approve the adopted tax rate, that becomes the district's tax rate for the current year. If the TRE fails, the board may not adopt a rate higher than the rollback rate.<sup>25</sup> On receipt of notice of the tax rate for the current year, the assessor will calculate the tax imposed on each property on the district's 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>26</sup>

**Submit Tax Information to County Assessor-Collector:** Each taxing unit, including a school district, 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.<sup>27</sup>

### **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.<sup>28</sup> A district should communicate its intent to conduct a TRE to the county or city, if applicable, as soon as possible to secure the accessible voting systems. Districts attempting to conduct a TRE around the time of a uniform election may find availability of accessible voting systems to 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.

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<sup>22</sup> Tex. Elec. Code § 13.143.

<sup>23</sup> Tex. Elec. Code § 3.005(a).

<sup>24</sup> Tex. Elec. Code § 67.003(a).

<sup>25</sup> Tex. Tax Code § 26.08(c)-(d).

<sup>26</sup> Tex. Tax Code § 26.09.

<sup>27</sup> Tex. Tax Code § 26.16.

<sup>28</sup> Tex. Elec. Code § 61.012.

Smaller counties and political subdivisions may qualify for exemptions from the requirement to provide accessible voting systems at each polling place.<sup>29</sup> The deadline to claim 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.<sup>30</sup>

**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 purely factual materials about the TRE, as well as specific information about the election (date, polling sites, etc.), as long as there is no advocacy in the materials. For more information, see TASB Legal Services' [Campaign Speech During Elections](#) and the Texas Ethics Commission's [A Short Guide to the Prohibition against Using School District Resources for Political Advertising in Connection with an Election](#) (revised Oct. 13, 2017).

This document is continually updated, and references to online resources are hyperlinked, at [tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Business/documents/tax\\_ratification\\_elec\\_info.pdf](https://tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Business/documents/tax_ratification_elec_info.pdf). For more information on this and other school law topics, visit TASB School Law eSource at [schoollawsource.tasb.org](https://schoollawsource.tasb.org).

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<sup>29</sup> Tex. Elec. Code § 61.013.

<sup>30</sup> Tex. Educ. Code § 11.0581.