



2013 Tax Ratification Election Information and Timelines

This memo outlines relevant deadlines and procedures for holding a tax ratification (rollback) election (TRE) in 2013, both for districts using the early tax rate adoption process and districts adopting budgets and tax rates on the traditional timeline. Information in this document should be used in conjunction with TASB Legal Services' guides on budget and tax rate adoption.¹ Please note that the dates included in the TRE timelines are provided as a guide and starting point for district planning purposes. The district should review its final TRE calendar with local counsel to ensure accuracy.

Background Information

Truth-in Taxation Guide: The Comptroller includes guidance about TREs in its publication, *Truth-in-Taxation: A Guide for Setting School District Tax Rates (April 2012)*.² This publication includes information on TRE procedures and sample notice and ballot forms. Please review the Comptroller's *Guide* before preparing the necessary documents.

What is a TRE? Texas law requires school districts to calculate two tax rates—the effective tax rate and the rollback tax rate—after the district receives the certified appraisal rolls or certified property value estimates from the chief appraiser. Generally, if a school board adopts a tax rate above its rollback tax rate, it must hold an election to ratify 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 rate higher than the rollback rate.³ The board need not conduct another adoption process if it uses the rollback rate.

When is a TRE *not* required to adopt a rate higher than the rollback rate? In some circumstances, a district that has reduced its maintenance and operations (M&O) rate one year may be able to raise its M&O rate in the subsequent year without conducting a TRE. If a district's adopted M&O tax rate for the prior year was less than its effective M&O rate for that preceding year, then the district's current-year rollback tax rate will be calculated as if its prior-year adopted M&O rate were equal to its prior-year effective M&O rate. Also, in some situations where an increased tax rate is due to disaster recovery expenses, an election may not be required.

When can a TRE be held? A TRE must be conducted 30-90 days after the date the tax rate is adopted. If the November 5, 2013, uniform election date falls within the 30-90 day period, a district must hold the TRE on the uniform election date. Consequently, a school district hoping to hold a TRE prior to the November general election should begin planning as soon as possible.

¹ http://www.tasb.org/services/legal/esource/business/documents/adopt_budget_tax_early_march13.pdf;
www.tasb.org/services/legal/esource/business/documents/adopt_budget_tax_traditional_march13.pdf.

² www.window.state.tx.us/taxinfo/proptax/tnt11/pdf/96-1212.pdf.

³ Tex. Tax Code § 26.08(d).

Early Tax Rate Adoption Process & Timeframes

Districts may take advantage of the option to adopt tax rates using certified estimates of property values. This process is referred to as *early tax rate adoption*. For detailed information on the process of adopting the district's tax rate and budget under this process, please refer to the TASB Legal Services Guide on *Adoption of Budget & Tax Rates—Early Tax Rate Adoption*.⁴ Please be advised that the dates provided below are merely a sample of the dates a district may use to adopt an early tax rate and conduct a TRE. Be sure that your district verifies each date or timeframe with the actual dates of adoption by the district and adjusts any dates accordingly.

Estimate of tax value: Appraisal districts are required to prepare and certify an estimate of taxable property value to school districts by **April 30**.⁵

Notice of tax rate: A district using the early tax rate adoption process must publish notice⁶ and hold a public meeting for the purpose of discussing the proposed tax rate. The notice to discuss the proposed tax rate should be published not earlier than 30 days or later than 10 days prior to rate adoption.⁷

- If a district wishes to adopt its tax rate at the earliest date possible, notice for the tax adoption meeting should be posted by at least **May 1, 2013**.

A common point of confusion with the early tax rate adoption process is that, following a tax rate adoption and a TRE, the district will have to publish a second notice and hold a second public meeting regarding adoption of the budget. For specific information on the publication requirements for these notices, please refer to the TASB Legal Services Guide on Adoption of Budget & Tax Rates—Early Tax Rate Adoption.

Adoption of tax rate: Upon receipt of the certified estimate, a school district using the early adoption process may choose to adopt a tax rate before the budget and before receipt of the certified appraisal roll, which is released on July 25.⁸

- Adoption of the tax rate may be accomplished as early as **May 13, 2013** if the district has complied with the notice requirements described above and agenda posting requirements under the Open Meetings Act.⁹

⁴ www.tasb.org/services/legal/esource/business/documents/adopt_budget_tax_early_march13.pdf.

⁵ Tex. Tax Code § 26.01(e).

⁶ Notice of Public Meeting to Discuss Proposed Tax Rate: www.window.state.tx.us/taxinfo/proptax/tnt11/pdf/96-1212.pdf. Specific requirements for this notice regarding size and content are included in the *Truth-in-Taxation Guide, Appendix 6*.

⁷ We note that districts with a July 1 fiscal year may use the certified estimates in preparing budgets and tax rate hearing notices. The notice for these districts can also be found in the *Truth-in-Taxation Guide, Appendix 5*: www.window.state.tx.us/taxinfo/proptax/tnt11/pdf/96-1212.pdf.

⁸ Tex. Tax Code § 26.01(a).

⁹ Notice of a public meeting must be posted at least 72 hours before the meeting. Tex. Gov't Code § 551.043(a).

- **Note:** May 13 is the first *business day* closest to the **10 day posting period** that a board can meet to hold the open meeting to adopt the tax rate. The 10th day from May 1 is actually Saturday, May 11. A school board may decide to conduct its open meeting to adopt the tax rate on that date; however, keep in mind that May 11, 2013 is a uniform election date, and your school district may be conducting an election on that day. If your district does hold the adoption meeting on May 11th, be sure to adjust any other timeframes accordingly.

Order a TRE: Districts using the early tax rate adoption process are authorized to order a TRE with as few as 30 days notice, after the adoption of the tax rate.¹⁰ Notice of the TRE must be provided to the county clerk of each county in which the school district is located no later than the 30th day before the rollback election day.¹¹ All other election requirements and deadlines are the same as those for traditional TREs. Be sure to work with your local counsel to calculate timeframes and deadlines if your rollback election will be held on a non-uniform election date.

The district may order the TRE at the same meeting at which it adopts the tax rate as long as both actions—ordering the election and adopting the tax rate—are included as separate items in the posted agenda.

Conduct & canvass a TRE: A TRE must be held within 30-90 days after the date of the tax rate adoption. After conclusion of the TRE, the district must canvass the election returns in accordance with election procedures.¹²

- The earliest date the district may hold the TRE is on **June 12, 2013**, if the election is ordered as indicated above on May 13, 2013.
- Canvassing for that election may occur as early as **June 20, 2013**.

The final tax rate: After the tax rate is adopted by the board and ratified by the voters, 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 school board for approval. If voters do not ratify the adopted tax rate, the district may not adopt a tax rate that exceeds the rollback rate.¹³ The appraisal roll with the amounts of tax entered as approved by the school board constitutes the district's tax roll.

Submit final tax information: Additionally, each taxing unit located wholly or in part in a county must provide the adopted tax rate, M&O rate, the debt rate, effective tax rate, effective maintenance and operations tax rate, and the rollback rate to the county assessor-collector following the adoption of the tax rate. The county assessor-collector is required to publish this information in the form of a table on the county's Web site, if the county maintains a Web site.¹⁴

¹⁰ Tex. Elec. Code § 3.005(d).

¹¹ Tex. Elec. Code § 4.008(b).

¹² Tex. Elec. Code § 67.003.

¹³ Tex. Tax Code § 26.08(d).

¹⁴ The title of the publication is referred to as "Truth in Taxation Summary." In addition to the publication of the tax rates, the county assessor-collector will publish the definitions for each of the varying taxes. Tex. Tax Code § 26.16.

Traditional Tax Rate Adoption Process & Timeframes

The following information pertains specifically to districts adopting their tax rates under the traditional method after receiving the certified appraisal roll from the appraiser. For detailed information on the process of adopting the district's tax rate and budget under this process, please refer to the TASB Legal Services Guide on *Adoption of Budget & Tax Rates—Traditional Method*.¹⁵ The timeframes and deadlines provided below are only a sample of possible dates to execute specific tasks. Each district should verify its specific TRE timeframes and deadlines with local counsel.

Certified appraisal roll: Chief appraisers must provide the certified appraisal roll to school districts by **July 25**.¹⁶

Notice of tax rate: The notice¹⁷ to discuss the proposed tax rate should be published not earlier than 30 days or later than 10 days prior to rate adoption. For more specific information on publication of this notice, please refer to the TASB Legal Services Guide on Adoption of Budget and Tax Rates- Traditional Method.

- If a district wants to adopt the tax rate at the earliest date possible, notice should be published by **July 26, 2013**.

Adoption of tax rate: After receipt of the certified appraisal roll, the administration will calculate the proposed tax rates and the school board will adopt the tax rate at a properly posted meeting in accordance with the Open Meetings Act¹⁸ and in accordance with notice provisions detailed above.

- The earliest date a district may adopt its tax rate is **August 5, 2013**, if notice is published on July 26.¹⁹
- Note: The budget and tax rate topics may be discussed at the same public meeting; however, the adoption of the budget must come before the adoption of the tax rate.
- Adopting a tax rate after August 6 will put the November 5 uniform election day in the 30-90 day window, requiring a district to hold its TRE on the November uniform election date.

Order a TRE: The legal deadline to order a TRE depends on the date the election will be held. For an election held on the November 5, 2013, uniform election date, the election must be ordered at least 71 days prior to election day.²⁰ Districts following the traditional adoption method are **not allowed** to order a rollback election with as few as 30 days notice, as is the case with early adoption districts.

¹⁵ www.tasb.org/services/legal/esource/business/documents/adopt_budget_tax_traditional_march13.pdf.

¹⁶ Tex. Tax Code § 26.01(a).

¹⁷ Notice of Public Meeting to Discuss Budget and Proposed Tax Rate, *Truth-in-Taxation Guide, Appendix 5*: www.window.state.tx.us/taxinfo/proptax/unt11/pdf/96-1212.pdf.

¹⁸ Notice of a public meeting must be posted at least 72 hours before the meeting. Tex. Gov't Code § 551.043(a).

¹⁹ Ordering a TRE by August 5th will ensure that the district's election can be held on a date other than the November 5 uniform election date thereby, allowing the district to hold the TRE on its own and not in conjunction with a county or municipal election held on November 5th.

²⁰ The deadline to order an election on the November uniform election in odd numbered years has been amended by the 82nd Legislature in Senate Bill 100 to be 71 days before election day. Tex. Elec. Code § 3.005(c)(2).

- A district is not required to adopt its tax rate and order the TRE at the same meeting, but may do so if they wish, as long as each item is listed separately on the agenda. If a district orders the TRE at the same meeting as the adoption of the tax rate, the district may order the election as early as **August 5, 2013**.
- Note that the “blackout period” in Texas Election Code section 41.001(c) does not apply to school district TREs. Since the blackout period does not apply to TREs, a district may hold an election any time before or after November 5, 2013, in accordance with Texas Tax Code section 26.08(b). Districts that want to conduct their TRE before or after the November uniform election date **must order the TRE at least 62 days before it is held.**²¹
- A word of caution for districts attempting to conduct a TRE around the time of a uniform election—availability of accessible voting systems may be scarce due to the fact that any available accessible voting systems will be occupied for some time prior to the election and after the election by counties and other political subdivisions conducting early voting and election day procedures.
- If the district adopts its tax rate after August 6, the deadline to order the TRE to be held on the November 5 uniform election date is **August 26, 2013**. Districts that will have their TRE on the November 5 uniform election date should refer to the Texas Secretary of State’s election calendar for election information.²²

Conduct a TRE: Districts that will have their TRE on the November 5 uniform election date should refer to the Texas Secretary of State’s calendar, referenced above, and regular election procedures for conducting their election. The following dates are provided as a guide and sample for districts seeking to conduct their TRE *on the earliest possible day outside of the November 5 uniform election date*.

Action	Timeline
Order tax rollback election in accordance with election requirements	August 5, 2013
Provide notice of election to county clerk & voter registrar ²³	60 days before election day
Submit preclearance to U.S. Department of Justice	Recommended - 75 days before election day
Notice of election published in newspaper ²⁴	Not earlier than 30 days or later than 10 days before election day
Period for accepting applications for ballots by mail ²⁵	60 days before election day through 7th day before election day
Period for early voting ²⁶	17th day before election through the 4th day before election

²¹ Elections ordered by political subdivisions to be held on non-uniform election dates, must be ordered 62 days before the election. Tex. Elec. Code § 3.005(a).

²² Texas Secretary of State- Important Dates: www.sos.state.tx.us/elections/voter/2013dates.shtml.

²³ Tex. Elec. Code § 4.008(a).

²⁴ Tex. Elec. Code §§ 4.003(a), .004.

²⁵ Tex. Elec. Code § 84.007(c).

²⁶ Tex. Elec. Code § 85.001(a).

Action	Timeline
Last day to register to vote in election ²⁷	30th day before election day
Election day ²⁸	62 days after order of election (Sunday, October 6 th if ordered on August 5 th) ²⁹
Canvass results of election ³⁰	8th day after election day through 11th day after election

The final tax rate: After the tax rate is adopted by the board and ratified by the voters, 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 school board for approval. If voters do not ratify the adopted tax rate, the district may not adopt a tax rate that exceeds the rollback rate.³¹ The appraisal roll with the amounts of tax entered as approved by the school board constitutes the district’s tax roll.³²

Submit final tax information: Additionally, each taxing unit located wholly or in part in a county must provide the adopted tax rate, M&O rate, the debt rate, effective tax rate, effective maintenance and operations tax rate, and the rollback rate to the county assessor-collector following the adoption of the tax rate. The county assessor-collector is required to publish this information in the form of a table on the county’s Web site, if the county maintains a Web site.³³

Important Reminders

We encourage districts to work closely with their counties in planning their TRE’s.

- Texas law requires school districts to use accessible voting systems for TREs. If your district is considering holding a TRE, contact your city or county as early as possible, to ensure that voting machines are available for the election.
- Smaller counties and political subdivisions may be able to apply for exemptions from the requirement to provide accessible voting systems at each polling place. The application deadline for 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).
- TREs are not required to be held jointly with other political subdivisions, unless the district chooses to hold its TRE at the same times as its trustee election in May or November. When both elections are held at the same time, the TRE will be covered by the same joint election requirements as the trustee election. In that instance, school districts must use the same precincts and election-day polling places as municipalities or counties within the districts’ boundaries. Tex. Elec. Code §§ 42.002(a)(5), 43.004(b).

²⁷ Tex. Elec. Code § 13.143.

²⁸ Elections ordered by political subdivisions to be held on non-uniform election dates must be ordered 62 days before the election. Tex. Elec. Code § 3.005(a).

²⁹ Texas law does not prohibit an election to be held on a Sunday; however, this may be an issue your school district will want to take into consideration when planning the election calendar.

³⁰ Tex. Elec. Code § 67.003(a).

³¹ Tex. Tax Code § 26.08(d).

³² Tex. Tax Code § 26.09(e).

³³ The title of the publication is referred to as “Truth in Taxation Summary.” In addition to the publication of the tax rates, the county assessor-collector will publish the definitions for each of the varying taxes. Tex. Tax Code § 26.16.

- TREs will require preclearance by the United States Department of Justice. A district using the November uniform election date should consider coordinating preclearance submissions with the county.
- Public funds cannot be used for political advertising or electioneering to support a TRE. School districts are permitted to communicate with taxpayers by producing factual materials about the TRE, as well as information about the conduct of the election (date, polling sites, etc.), as long as there is no advocacy in the materials. For more information, see TASB Legal Services' guidance on *Campaign Speech During Elections*³⁴ and the Texas Ethics Commission's guidance³⁵ for school districts.

For more information on this and other school law topics, visit TASB School Law eSource online at schoolawesource.tasb.org.

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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³⁴ www.tasb.org/services/legal/documents/campaign_speech_mav1.pdf.

³⁵ www.ethics.state.tx.us/pamphlet/B09pad_sch.pdf.

