



## Budget and Tax Rate Adoption FAQ

### New in Tax Year 2024

- **No-new-revenue maintenance and operations tax rate:** Because of a drafting error in 2019, there has been much confusion around the calculation of this important tax rate for the past few years. The legislature addressed the problem in 2023 (HB 4456, 88<sup>th</sup> R.S.). Beginning in 2024, this tax rate is once again the same as the rate to maintain M&O revenue that is included in the Notice of Public Meeting to Discuss Budget and Proposed Tax Rate (Comptroller's Form 50-280) published in the newspaper. This rate is calculated in the state aid templates. It attempts to capture the rate needed to generate the same M&O revenue (state aid plus local taxes net of recapture), per student, as the district had in the prior year.
- **Homestead exemption:** Because Texas voters approved the amendment to the Texas Constitution, the homestead exemption is now \$100,000. This and other legislative changes were implemented on a provisional basis in tax year 2023 pending voter approval.
- **Election of appraisal district board members:** Again, because voters approved the constitutional amendments in November, in counties with population of 75,000 or more, three of nine appraisal district directors will be elected by voters in the county. Five will be appointed by the taxing units. Additional changes address term lengths and appointing authority for ARB members.
- **Changes to August 7 CAD postcard and new website posting requirement:** Beginning in 2024, the chief appraiser must post prominently on the CAD's website and the district's tax assessor must post prominently on the district website specific notice informing property owners that they can find their estimated taxes in the CAD database. (See question 42 for more information.) The chief appraiser must also publish the notice in the newspaper by August 7 or as soon thereafter as practicable.

### Abbreviations

- **ARB:** Appraisal Review Board
- **CAD:** County or Central Appraisal District
- **FSP:** Foundation School Program
- **FY:** fiscal year
- **I&S:** interest and sinking fund
- **MCR:** maximum compressed tax rate (also known as Tier 1 tax rate)
- **M&O:** maintenance and operations
- **NNR tax rate:** no-new-revenue tax rate
- **NNR M&O tax rate:** no-new-revenue maintenance and operations tax rate

- **PVS:** Comptroller’s Property Value Study conducted by the Property Tax Assistance Division (PTAD)
- **VATR:** voter-approval tax rate
- **VATRE:** voter-approval tax rate election
- **WADA:** weighted average daily attendance

## Budget Issues

### 1. What happens if the board does not adopt a budget prior to the end of the fiscal year?

The district may not legally spend money in a new year if the board has not adopted a budget (Texas Education Code § 44.006; FASRG 1.1.3, 2022). Consequently, it is critical that your board adopt a budget before the start of the fiscal year. Remember that the budget can be amended later, so even if you do not know everything about next year’s spending or revenue, the board must adopt a budget prior to the beginning of the fiscal year and make plans to amend the budget as more information becomes available.

The district’s auditor will consider whether the district adopted the budget before the end of the fiscal year and prior to any expenditure of funds as part of the district’s annual audit. (FASRG 4.6.4, Exhibit 1, p. 59, 2022)

### 2. What if a natural disaster prevents the board from meeting in time to adopt the budget or tax rate?

The board should try to meet, if at all possible, if it is close to the deadline to adopt the budget or tax rate. If a board is prevented from convening a properly posted open meeting because of a catastrophe, the Texas Open Meetings Act (OMA) allows the board to convene in a convenient location within 72 hours if this is done in good faith and not to circumvent the OMA. If the board cannot meet within 72 hours, the board must properly post notice for another meeting. A *catastrophe* is a condition or occurrence that interferes physically with the board’s ability to conduct a meeting, including fire, flood, earthquake, hurricane, tornado, wind, rain, or snowstorm; power failure, transportation failure, or interruption of communication facilities; epidemic; or riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence. Tex. Gov’t Code § 551.0411(c). You should consult your school attorney for guidance regarding the board’s options and make a good faith effort to keep the public informed via available options like the district website, social media, and news publications.

### 3. As a July 1 FY district, the board needs to adopt a budget, but I don’t know what our VATR will be because TEA has not yet determined our MCR. What do I do?

The board must adopt a budget prior to the beginning of the fiscal year. This means you will need to publish notice of the meeting to discuss the budget and proposed tax rate before you know with certainty the tax rate the board will adopt. **The board cannot adopt a tax rate before you have all the information necessary to calculate the district’s VATR and other tax rates, including the district’s MCR from TEA.** But you can publish the required notice of the meeting and **adopt only the budget** at the meeting. Once you have the necessary information, the board can adopt the tax rate at a subsequent meeting posted in compliance with the OMA.

As long as the rate the board eventually adopts is below **both** the rate you published and the VATR, you will not need to republish notice in the newspaper. If the board needs to adopt a rate

that is higher than the published rate or the VATR calculated using the certified appraisal roll, you must republish notice and hold another hearing prior to tax rate adoption.

**4. If we are planning a VATRE, should we adopt a budget that assumes the VATRE will be successful and the tax rate approved or one that assumes the VATRE will be unsuccessful?**

Either approach is acceptable. If the election outcome is different from the assumption on which the budget is based, the budget will need to be amended to reflect the actual tax rate imposed.

**5. What must be posted online before my budget is adopted?**

According to Texas Education Code section 44.0041, a district must post a summary of the proposed budget on the district website concurrently with the publication of notice in the newspaper. The budget summary must include the following:

A. Information relating to per student and aggregate spending on:

- 1) Instruction;
- 2) Instructional support;
- 3) Central administration;
- 4) District operations;
- 5) Debt service; and
- 6) Any other category designated by the commissioner; and

B. A comparison to the previous year's actual spending.

**6. Must the adopted budget be posted online?**

Texas Education Code section 44.0051 requires a district to post a copy of the adopted budget on the district website with a link to the budget prominently displayed. The district must maintain the budget on the website for three years after adoption. Other required website postings are discussed below.

**7. Is there a template for posting the proposed and adopted budgets?**

[Region 12](#) offers templates for both.

**8. Can we adopt a budget with a pay increase contingent on the success of the VATRE?**

It is possible to include a contingent pay increase in the district's compensation plan. For more information, see [Contingent Pay Increases \(tasb.org\)](#) and consult your school attorney to ensure your approach is defensible.

## **Tax Rate Issues**

### **Calculations**

**9. How do we calculate the various tax rates required in the truth-in-taxation process?**

The comptroller's office posts forms that you must use for this purpose. You can find them on the comptroller's [Tax Rate Calculation page](#). The comptroller does not calculate every necessary tax rate, however. Some rates are calculated in the state aid template, such as the rate to maintain M&O revenue, which is now also the NNR M&O tax rate.

## 10. Who should calculate our NNR tax rate and VATR?

Texas Tax Code section 26.04(c) requires “an officer or employee designated by the governing body” to calculate the NNR tax rate and the VATR. The person designated by the board to do these calculations varies from district to district. In some districts, the tax assessor-collector does the calculations. In others, it is the school district CFO’s responsibility. Some districts contract with a firm or service. Importantly, this person has certain specified responsibilities, including those outlined in Texas Tax Code section 26.17(e) to upload documentation into the CAD database of truth-in-taxation calculations.

The Tax Code does not specify how the board should designate this person. Many districts use a resolution each year; at a minimum, the board meeting minutes should reflect who in the district has this responsibility.

## 11. What about the NNR M&O tax rate? I don’t see this calculation on the form from the comptroller.

As discussed earlier, House Bill 4456, 88<sup>th</sup> Regular Session, redefined the NNR M&O tax rate to reference the rate to maintain M&O revenue under Texas Education Code section 44.004. This is calculated in the state aid template on the Rate to Maintain tab. You’ll also see it on the Notice tab.

The rate to maintain M&O revenue takes into account the full picture of state and local revenue net of recapture. It is the tax rate that would generate the same revenue per student as you had in the prior year. This calculation was used in rollback rate calculations under prior law and is required for your published notice of the meeting to discuss budget and proposed tax rate.

The rate to maintain (or NNR M&O tax rate) may trigger requirements during the tax rate adoption process under Texas Tax Code section 26.05(b). First, the vote on the ordinance or resolution setting a tax rate that exceeds the rate calculated under Texas Education Code section 44.004(c)(5)(A)(ii) (rate to maintain same level of M&O revenue & pay debt service) must be a record vote, and at least 60 percent of the members of the board (five on a seven member board, regardless of attendance) must vote in favor of the ordinance or resolution. Second, the ordinance or resolution and the district website must include specific language if the board adopts a tax rate that will generate more M&O tax revenue than the preceding year. Additional specific language is required if the rate also exceeds the no-new- revenue M&O tax rate.

## 12. What is the difference between the VATR and the NNR tax rate?

The **voter-approval tax rate** (Texas Tax Code § 26.08(n)) is the maximum rate the board can adopt without going to the voters for approval in a voter-approval tax rate election. It consists of the Tier 1 rate (or MCR) calculated by TEA plus the greater of:

- 5 Tier 2 pennies; or
- The number of Tier 2 pennies the district had in the prior year (subject to compression of copper pennies in a year when the state increases the guaranteed yield on those pennies); and
- The current debt rate.

The **no-new-revenue tax rate** (Texas Tax Code § 26.04(c)), on the other hand, is the rate the district would need to adopt to generate *only the local revenue* it had in the prior year. This rate does not account for state aid or recapture changes that accompany increased property values nor does it account for changes in student enrollment. It includes both M&O and I&S property tax revenue.

**13. What is the difference between the NNR tax rate and the no-new-revenue M&O tax rate?**

The **no-new-revenue tax rate** is the rate that would produce no additional local tax revenue (combined M&O and I&S). It does not include any effects of state aid or recapture. If your district is proposing a rate in excess of this calculated rate, then specific wording is required in the motion to adopt the tax rate. It is calculated through the truth-in-taxation forms posted on the comptroller's website.

The **no-new-revenue M&O tax rate** is different in that it only focuses on the M&O portion of the tax rate and it **does** account for offsetting changes in state aid and recapture. The NNR M&O tax rate is now the same as the rate to maintain M&O revenue and can be calculated in the state aid template on the Rate to Maintain tab.

**14. What are the other responsibilities of the person designated by the board to calculate the VATR and the NNR tax rate?**

The designated person must submit the completed calculation forms to the county assessor-collector for each county in which all or part of the district is located. The county assessor-collector must post on the county website the calculation forms for the most recent five tax years beginning with 2020. The forms used by the designated person also are included as an appendix to the district's budget.

Additionally, the designated person is responsible for electronically incorporating information into the CAD database under Texas Tax Code § 26.17 related to the rate to maintain and the VATR, the proposed tax rate, and the board meeting to discuss the tax rate. The person must also submit the calculation forms.

**Tier 1/MCR**

**15. Which value from my CAD do I enter into TEA's local property value survey for calculating the district's Tier 1 tax rate?**

You should use grand total net taxable value, ARB approved and under review combined. It is very important that you use the same value for the current year as you used for the prior year so that you have an apples-to-apples comparison.

**16. What do I do if the value I have from my CAD at the time the local property value survey is due seems unreasonable because so much property remains subject to ARB?**

You need to complete the local property value survey by August 1 based on the data you have available. However, you can appeal the result if you believe it is based on faulty data. According to TEA rule, written appeals are due no later than 10 calendar days after TEA approves the district's preliminary MCR. The process for appealing the preliminary MCR can be found in 19 TAC 61.1000(g). You can file an appeal within the 10-day limit and ask to resubmit data at a later date. Do not wait for improved data to file the initial appeal because TEA will not consider an appeal received after 10 days. Once the initial appeal is filed, you can follow up with better data once it is available.

**17. What are the financial implications for the district when the Tier 1 tax rate (MCR) falls?**

The Tier 1 tax rate governs both the rate the district is allowed to adopt as well as the calculated local share of the FSP. Consequently, reductions in local collections resulting from a reduced Tier 1 tax rate should largely be offset by increases in state aid in Tier 1.

## Adoption Process

### **18. Does the board have to approve the proposed tax rate before it is published in the Notice of Public Meeting to Discuss Budget and Proposed Tax Rate?**

No. Although some districts do this by practice, the board is not required to approve a proposed tax rate prior to it being published for notice purposes.

### **19. Is there any requirement for a unanimous board vote for tax rate adoption.**

No. In 2019, there was a requirement for a unanimous vote if the district was increasing from 4 to 5 enrichment pennies in Tier 2, but that requirement is no longer in effect.

### **20. What happens if my board fails to adopt a tax rate?**

Texas Tax Code section 26.05(c) addresses this:

If the governing body of a taxing unit does not adopt a tax rate before the date required by Subsection (a) [before the later of September 30 or the 60<sup>th</sup> day after the date the certified appraisal roll is received by the taxing unit], the tax rate for the taxing unit for that tax year is the lower of the no-new-revenue tax rate calculated for that tax year or the tax rate adopted by the taxing unit for the preceding tax year. A tax rate established by this subsection is treated as an adopted tax rate. Before the fifth day after the establishment of a tax rate by this subsection, the governing body of the taxing unit must ratify the applicable tax rate in the manner required by Subsection (b).

Thus, if the board fails to adopt a tax rate, the lesser of the NNR tax rate or the prior year's tax rate becomes the tax rate for the current year. The NNR tax rate may be below the VATR. In working through calculations, we have found that the NNR tax rate (which only considers the local tax levy but not recapture or state aid) often results in lower combined state and local revenue net of recapture. Additionally, the NNR tax rate could turn out to be lower than the rate necessary to collect the local share of the FSP. Because the VATR for each year is based, at least in part, on the adopted tax rate in the prior year, failure to adopt a tax rate in one year could create a multi-year problem.

### **21. I am in a July 1 FY district and the board already adopted the budget. We are now planning to adopt a tax rate that is lower than the proposed rate published in the notice, but we are planning to exceed the VATR. Do we need to publish another notice and hold another hearing?**

Yes. Texas Education Code section 44.004(i) says, "After receipt of the certified appraisal roll, the district must publish a revised notice and hold another public meeting before the district may adopt a tax rate that exceeds:

- (1) the rate proposed in the notice prepared using the [April 30 certified] estimate; or
- (2) the district's voter-approval rate determined under Section 26.08, Tax Code, using the certified appraisal roll."

### **22. Can the board adopt the tax rate using the certified estimate, or do we need to wait for the certified appraisal roll?**

The Texas Tax Code addresses two certified estimates – one provided to every district by the chief appraiser by April 30 and a second provided by July 25 only if the chief appraiser is unable to provide a timely certified appraisal roll because the ARB has not approved the appraisal records by July 20.

July 1 FY districts often rely on the April certified estimate to publish notice of the meeting to discuss budget and proposed tax rate and to adopt the budget. Texas Education Code section 44.004(i) expressly requires a July 1 district to wait on the certified appraisal roll to adopt a tax rate.

With regard to the July 25 certified estimate, the Tax Code allows the designated officer or employee to use that estimate to calculate the NNR tax rate and the VATR. There is no express authorization to use it to *adopt* a tax rate.

Consequently, we recommend waiting for the certified value if at all possible. A district planning a VATRE may have no choice but to use the July 25 certified estimate to adopt a tax rate in time to order an election. Consult your school attorney if that is your situation.

**23. Does the board need to adopt the certified appraisal roll before adopting the tax rate?**

The board does not adopt the appraisal roll before adopting the tax rate. After the board adopts the tax rate and notifies the assessor of the rate, the assessor calculates the tax for each property and enters the amount on the appraisal roll. The assessor then submits this to the board for approval. Once approved by the board, it becomes the district's tax roll.

**24. By what vote margin does my board need to adopt the tax rate?**

The margin needed depends on the tax rate adopted. If the rate adopted exceeds the rate to maintain same level of M&O revenue and pay debt service, then a super majority is required. A supermajority is 60 percent of the *members* of the board, not 60 percent of members present. For a seven-member board, this is five members.

**25. How do we calculate the percentage increase between the proposed tax rate and the NNR tax rate for the blank in the required motion?**

If the board is setting a tax rate that exceeds the NNR tax rate, the motion adopting the ordinance or resolution must be made in the following form: "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 tax rate exceeds the no-new-revenue tax rate*) percent increase in the tax rate."

To calculate the difference between the proposed rate and the NNR tax rate, we recommend the following:

$$\text{(Proposed Tax Rate - NNR Tax Rate) / NNR Tax Rate}$$

**26. How do we calculate the numbers to fill in the blanks for the percentage increase between the proposed M&O tax rate and the NNR M&O tax rate and for the increase in taxes on a \$100,000 home?**

Texas Tax Code section 26.05(b) requires certain language to be included in the ordinance or resolution in type larger than type used elsewhere, and on the home page of the district website (1) if the tax rate will impose more M&O taxes than in the prior year and (2) if the rate exceeds the NNR M&O tax rate.

If the first condition is met, the following language is required in the ordinance or resolution:

**"THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE."**

The language for the website is similar:

"(Insert name of taxing unit) ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE"

If both conditions are met, the following language is *also* required:

"THE TAX RATE WILL EFFECTIVELY BE RAISED BY *(INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE)* PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(*Insert amount*)."

To calculate the difference between the proposed rate and the NNR M&O rate, we recommend the following:

$$(\text{Proposed M\&O rate} - \text{NNR M\&O Rate}) / \text{NNR M\&O Rate}$$

To calculate the increase in taxes on a \$100,000 home, we recommend the following:

$$(\text{Proposed M\&O Rate} * (\$100,000 / 100)) - (\text{Prior Year M\&O Rate} * (\$100,000 / 100))$$

If this calculation results in a negative number, you can either use that number or state the increase as zero.

**27. Can we add clarifying language to the motion, resolution or ordinance, or VATRE ballot?**

Texas Tax Code provisions prescribe motion language that must be used under certain circumstances as well as language for the resolution or ordinance and the district's website to be used under other circumstances. You cannot change the required statutory language. You can add limited clarifying language to the resolution or ordinance if necessary for transparency and to minimize taxpayer confusion. If possible, clarification should be done through other educational tools or communications with taxpayers.

Consult your attorney before modifying the statutory VATRE ballot language.

**Debt Service (I&S)**

**28. Can the board adopt the same debt service tax rate as last year?**

Maybe, but not necessarily. Through the truth-in-taxation process, the board is allowed to adopt the I&S tax rate needed to make payments on voter-authorized bonded debt. The rate needed depends on the payments you plan to make in the coming tax year, the district's property value, the state aid you expect to receive, and the percent of the calculated levy you project collecting.

**29. How do modifications to the debt service schedule change the allowed I&S tax rate?**

Districts are allowed to modify the debt service schedule to pay down debt faster and reduce borrowing costs. Increasing the planned debt service in a given year would increase the allowed I&S tax rate. Districts considering this strategy should consult their financial advisors and include the payment amount in their debt service used for truth-in-taxation calculations. It is also a good idea to delineate the amount of early payments in the budget and for the board and community (along with the potential interest savings).

**30. Is there a limit on the collections percentage I can use when calculating the current debt rate?**

Yes. According to Texas Tax Code section 26.04(h-1), you may not use a rate that is lower than the lowest actual collections rate for the three preceding years.



**31. Can the board adopt the same debt service tax rate that we told the voters would be needed in the bond election information?**

Maybe, but not necessarily. You likely estimated a tax rate that you thought would be needed to service debt in the coming years, but the truth-in-taxation process may result in a different tax rate for the current tax year. Differences could be due to a number of factors, but the primary one is likely differences between the actual property value in the district and the value that was projected at the time the bond was authorized.

**VATR, Election, and Efficiency Audit Issues**

**32. What could we gain by increasing our tax rate over our VATR and seeking voter approval of additional pennies of tax effort?**

A district may adopt a maximum of \$0.17 of Tier 2 tax effort. A district can access the first five pennies without holding a VATRE. Each of those pennies and the next three (for a total of eight) are called “golden pennies” because they are not subject to recapture and have a guaranteed yield of \$126.21 per WADA in FY 2024 and \$129.52 per WADA in FY 2025. Therefore, if a district has a successful VATRE to access those 3 additional golden pennies, the district could, depending on the circumstances, generate as much as \$380 per WADA in additional state and local funding.

The next nine pennies are called “copper pennies” because they yield \$49.28 and are subject to recapture. Nevertheless, a district could generate around \$440 per WADA for the nine remaining pennies if they have not accessed any of them yet.

These are average numbers, and a district’s specific results would vary depending on a variety of factors. It is important to use a state aid template to calculate the specific impact of any tax rate decisions you are considering.

**33. Can the board adopt a tax rate in excess of the VATR without holding an election?**

Generally, no; however, if your district had increased expenditures as a result of certain disasters (excluding drought, pandemic, or epidemic) and the district is located in an area for which the governor requested federal disaster assistance, you may be able to add disaster pennies to the tax rate without holding a VATRE “in the year following the year in which the disaster occurs.”

You may never exceed a total of 17 Tier 2 pennies on top of the MCR, including disaster pennies. You must specify the disaster declaration the board is relying on to adopt Tier 2 pennies without conducting a VATRE. The disaster pennies are excluded from the calculation of the following year’s VATR. See Texas Tax Code § 26.042 (e), (f) and (g).

**34. Do we have to conduct an efficiency audit to have a VATRE this year?**

Texas Education Code section 11.184(b-1) includes an exemption for the two-year period following the date of a disaster declaration:

The board of trustees of a school district all or part of which is located in an area declared a disaster area by the governor under Chapter 418, Government Code, may hold an election to seek voter approval to adopt a maintenance and operations tax rate during the two-year period following the date of the declaration without conducting an efficiency audit otherwise required under this section.

The most recent statewide disaster, declared on February 12, 2021, no longer exempts every district from an efficiency audit; however, your district may be exempt because of a disaster declaration covering the area in which your district is located.

**35. Does the board have to take specific action to select an auditor to conduct the efficiency audit if the district will be using the auditor that conducts the district's annual audit and the extra cost for the efficiency audit is below the threshold requiring board action?**

Yes. Texas Education Code section 11.184(d) requires the board to select an auditor to conduct an efficiency audit not later than four months before election day. Section 11.184(e) allows the board to select the auditor that conducts the district's annual audit. Consequently, the board must take action even if the board chooses the school district's current auditor and the efficiency audit will be conducted as part of the district's annual audit. The date of selection commences the time period in which the auditor must perform the audit; the final audit report must be completed no later than three months after selection.

**36. [New] How far in advance can we do an efficiency audit? If we hold a VATRE and it does not pass, do we have to do another audit before we hold a VATRE the following year?**

Texas Education Code section 11.184 does not address how far in advance the efficiency audit may be done. For several reasons, we do not recommend relying on an audit done for a prior election. First, the [Legislative Budget Board Guidelines](#) for the audit state that the purpose is to help voters make an informed decision, so the information should be recent enough to serve that purpose. In addition, the guidelines require the auditor to examine and compare data from the district, peer districts, and the state for the most recent school year. Finally, the required summary of audit results includes time-sensitive items such as the date of the election and prior VATREs as well as current and proposed tax rates.

**37. Can the board order a VATRE before adopting a tax rate in case they ultimately adopt a rate that exceeds the VATR?**

No. The board must adopt the tax rate before ordering an election. Adopting a tax rate that exceeds the VATR triggers the requirement to have an election. Until that time, the board lacks authority to order an election.

**38. Can a district have a VATRE on the May uniform election date?**

No. Although Texas Tax Code section 26.08(b) references holding a VATRE on the "next uniform election date," as explained above, districts may not order the election until they have adopted the tax rate. And they cannot adopt the tax rate until they have all the information needed to calculate it, including the certified appraisal roll and the Tier 1 tax rate (MCR) from TEA. This is not available until late July or early August. Consequently, the November uniform election date is the only viable option.

**39. My district is having a VATRE. Statute requires the ballot to state the increase in M&O revenue compared to the prior year. Can we include state aid and/or recapture in that calculation?**

No. The statutory ballot language only specifies M&O tax revenue compared to the prior year.

"Ratifying the ad valorem tax rate of \_\_\_\_ (insert adopted tax rate) in (name of school district) for the current year, a rate that will result in an increase of \_\_\_\_\_ (insert percentage increase in maintenance and operations tax revenue under the adopted tax rate as compared to maintenance and operations tax revenue in the preceding tax year) percent in maintenance and operations tax revenue for the district for the current year as compared to the preceding year, which is an additional \$\_\_\_\_\_ (insert dollar amount of increase in maintenance and operations tax revenue under the adopted tax rate as compared to maintenance and operations tax revenue in the preceding tax year)."

**40. What if M&O revenue is declining compared to the prior year, even after the VATRE? Can we modify the ballot language?**

You should not modify the statutory ballot language. Consult your district's attorney for guidance on whether to specify a negative number or state that the increase is zero. Because the ballot language only refers to M&O tax revenue (and does not include any state aid or recapture implications), you should explain the differences to your voters before the election.

**41. Can we offer incentives to our staff to encourage them to vote?**

You should not offer incentives for voting without consulting your district's attorney. The Texas Attorney General was recently asked about the legality of offering incentives to vote. ([RQ-0522-KP](#), November 13, 2023)

In addition, it is important to remember that the Texas Election Code prohibits an officer or employee of a political subdivision, including a school district, from knowingly spending or authorizing the spending of public funds for political advertising. Texas Education Code prohibits a school board from using state or local funds or other district resources to electioneer for or against any measure.

**42. What is our tax rate if our VATRE is not successful?**

Under Texas Tax Code section 26.08(d), if the proposition is not approved by a majority of voters, the board may not adopt a tax rate for the current year that exceeds the district's VATR. Consequently, the board must hold a meeting to adopt a tax rate equal to or less than the VATR if the VATRE is unsuccessful. The district does not have to republish notice in the newspaper.

**43. [New] If tax statements go out in October, what happens if the VATRE does not pass and the board has to set a lower tax rate?**

Texas Tax Code section 26.08, the statute that requires a VATRE, addresses this:

(d-1) If, after tax bills for the school district have been mailed, a proposition to approve the school district's adopted tax rate is not approved by the voters of the district at an election held under this section, on subsequent adoption of a new tax rate by the governing body of the district, the assessor for the school shall prepare and mail corrected tax bills. The assessor shall include with each bill a brief explanation of the reason for and effect of the corrected bill. The date on which the taxes become delinquent for the year is extended by a number of days equal to the number of days between the date the first tax bills were sent and the date the corrected tax bills were sent.

(d-2) If a property owner pays taxes calculated using the originally adopted tax rate of the school district and the proposition to approve the adopted tax rate is not approved by voters, the school district shall refund the difference between the amount of taxes paid and the amount due under the subsequently adopted rate if the difference between the amount of taxes paid and the amount due under the subsequent rate is \$1 or more. If the difference between the amount of taxes paid and the amount due under the subsequent rate is less than \$1, the school district shall refund the difference on request of the taxpayer. An application for a refund of less than \$1 must be made within 90 days after the date the refund becomes due or the taxpayer forfeits the right to the refund.

## Other Issues

**44. Are there other required website postings related to the budget or tax rate?**

School districts are subject to numerous website posting requirements under state and federal law (see TASB Policy CQA(LEGAL)). In addition to the items discussed above – proposed budget, adopted budget, required language if the tax rate meets certain criteria – Texas Tax Code section 26.18 requires the district to post several items on the district website in a format prescribed by the comptroller. The comptroller's [website](#) suggests that all of the information should be on a single page:

- Name of each board member;
- Mailing address, e-mail address, and telephone number of the district;
- Official contact information for each board member if it is different from the district information;
- Budget for the preceding two years;
- Proposed or adopted budget for the current year;
- Change in the amount of the budget from the preceding year to the current year, by dollar amount and percentage;
- M&O tax rate for the preceding two years;
- I&S tax rate for the preceding two years;
- M&O tax rate proposed for the current year;
- I&S tax rate proposed by for the current year; and
- Most recent financial audit

The district may already be posting some of this under other legal requirements and may be able to link to the information elsewhere to avoid duplication.

Beginning January 1, 2024, the *district's tax assessor* must post prominently on the *school district's website* a notice informing each property owner in an appraisal district that the estimated amount of taxes to be imposed on the owner's property by each applicable taxing unit may be found in the property tax database maintained by the CAD under Texas Tax Code section 26.17. The notice must include specific information set out in Tax Code section 26.04(e-2):

1. The following statement in bold typeface: "Visit [Texas.gov/PropertyTaxes](https://www.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 regarding the amount of taxes that each entity that taxes your property will impose if the entity adopts its proposed tax rate. Your local property tax database will be updated regularly during August and September as local elected officials propose and adopt the property tax rates that will determine how much you pay in property taxes."
2. A statement that the property owner may request from the county assessor-collector or the person who assesses taxes for the county, contact information for the assessor for each taxing unit in which the property is located, who must provide the information described to the owner on request;
3. The name, address, and telephone number of the county assessor-collector or the person who assesses taxes for the county in which the property is located; and

4. Instructions describing how a property owner may register on the appraisal district's website to have notifications regarding updates to the property tax database delivered to the owner by e-mail.

Districts should reach out to their assessor-collectors to coordinate compliance with these requirements.

*This information is provided for educational purposes to facilitate a general understanding of the law. This information is neither an exhaustive treatment on the subject nor is it intended to substitute for the advice of an attorney or other professional advisor. Consult your attorney or professional advisor to apply these principles to specific fact situations.*

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