

# *2020 Tax Calendar*



SAFE-D  
Webinar  
June 15, 2020

John Carlton  
The Carlton Law Firm, PLLC

1

# 2020 Tax Calendar

Setting Property Tax Rates Under SB2

2

## Property Tax Reform

“Effective Rate”  
is now  
“No-New-Revenue Tax Rate”

“Rollback Rate”  
is now  
“Voter-Approval Tax Rate”

3

## Property Tax Reform

- **Deadlines in New Tax Process**
  - July 25 deadline for Appraiser to submit Certified Appraisal Roll or Estimate
  - August 1 deadline for Assessor to provide data for tax calculations
  - August 7 deadline for tax rate calculations by taxing unit **AND posting on taxing unit website**
  - Mid-August (71 days before November election date) deadline to adopt tax rate and call election to exceed the Voter-Approval Tax Rate (August 24, 2020)
  - September 30 deadline to adopt tax rate at or below Voter-Approval Tax Rate

4

## Property Tax Reform

- Impact divided into three categories of ESDs
  - ESDs with M&O property tax rate of \$0.025/\$100 or less (Category 1)
  - ESDs with property tax revenues of more than \$6,250,000 (Category 2)
  - All other ESDs (Category 3)
- These categories are not found in statute, They are simply my way of explaining the differences

5

## Category 1

Special Taxing Units

6

## Category 1

- “Special Taxing Unit”
  - a taxing unit, other than a school district, for which the maintenance and operations tax rate proposed for the current tax year is 2.5 cents or less per \$100 of taxable value;
  - a junior college district; or
  - a hospital district
- Tax Code Sec. 26.012(19)

7

## Category 1

- Currently applies to about 20 ESDs in the State as Special Taxing Units

8

## Category 1

- 8% “Voter-Approval Tax Rate”
  - NO-NEW-REVENUE TAX RATE = (LAST YEAR’S LEVY – LOST PROPERTY LEVY) / (CURRENT TOTAL VALUE – NEW PROPERTY VALUE)
  - VOTER-APPROVAL TAX RATE = (NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE x 1.08) + CURRENT DEBT RATE
    - \*Currently applies to only 20 ESDs in the State\*

9

## Category 1

- Calculation of M&O Rate
  - 1.08 X Last year’s maintenance & operations expense
    - Means amount spent for maintenance and operations from property tax and additional sales and use tax revenues in the preceding year (ESDs do not have additional sales and use tax)
  - Divided by Current Total Value less New Property Value
    - Current Total Value means total taxable value of property listed on the appraisal roll for the current year, including all appraisal roll supplements and corrections as of the date of the calculation, less the taxable value of property exempted for the current tax year for the first time
    - New Property Value generally means the total taxable value of property added to the appraisal roll in the current year by annexation and improvements listed on the appraisal roll that were made after January 1 of the preceding tax year
      - \*Currently applies to only 20 ESDs in the State\*

10

## Category 1

- **Calculation of Current Debt Rate**
  - "Debt" means a bond, warrant, certificate of obligation, or other evidence of indebtedness owed by a taxing unit that is:
    - payable solely from property taxes in installments over a period of more than one year,
    - NOT budgeted for payment from maintenance and operations funds, and secured by a pledge of property taxes, or
    - a payment made under contract to secure indebtedness of a similar nature issued by another political subdivision on behalf of the taxing unit.
  - \*Currently applies to only 20 ESDs in the State\*

11

## Category 1

- **Calculation of Current Debt Rate**
  - **Current Debt Service Less Excess Collections**
    - Debt Service means "total amount expended or to be expended by a taxing unit from property tax revenues to pay principal of and interest on debts"
    - Excess Collections means "the amount, if any, by which debt taxes collected in the preceding year exceeded the amount anticipated in the preceding year's calculation of the rollback rate"
  - Divided by Current Total Value X Collection Rate
    - \*Currently applies to only 20 ESDs in the State\*

12

## Category 1

- 8% “Voter-Approval Tax Rate”
  - NO-NEW-REVENUE TAX RATE =  $(\text{LAST YEAR'S LEVY} - \text{LOST PROPERTY LEVY}) / (\text{CURRENT TOTAL VALUE} - \text{NEW PROPERTY VALUE})$
  - VOTER-APPROVAL TAX RATE =  $(\text{NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE} \times 1.08) + \text{CURRENT DEBT RATE}$ 
    - \*Currently applies to only 20 ESDs in the State\*

13

## Category 1

- Election Required if ESD adopts tax rate that exceeds greater of Voter-Approval Tax Rate
- If election fails, tax rate set at Voter-Approval Tax Rate

14

## Category 2

M&O Revenues Exceed \$6,250,000

15

Category 2

- Currently applies to less than 15 ESDs in the state
- But impact will grow as revenues grow

• Harris County ESD 9	• Harris County ESD 13
• Harris County ESD 11	• Bexar County ESD 2
• Harris County ESD 1	• Montgomery County ESD 10
• Travis County ESD 6	• Harris County ESD 16
• Harris County ESD 7	• Fort Bend ESD 2
• Harris County ESD 48	• Montgomery County ESD 8
• Travis County ESD 2	

16



## Category 2

- 3.5% “Voter-Approval Tax Rate”
  - NO-NEW-REVENUE TAX RATE = (LAST YEAR’S LEVY – LOST PROPERTY LEVY) / (CURRENT TOTAL VALUE – NEW PROPERTY VALUE)
  - VOTER-APPROVAL RATE = (NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE x 1.035) + (CURRENT DEBT RATE + UNUSED INCREMENT RATE)
    - \*Currently applies to only 15 ESDs in the State\*

17

## Category 2

- Calculation of M&O Rate
  - 1.035 X Last year’s maintenance & operations expense
    - Means amount spent for maintenance and operations from property tax and additional sales and use tax revenues in the preceding year (ESDs do not have additional sales and use tax)
  - Divided by Current Total Value less New Property Value
    - Current Total Value means total taxable value of property listed on the appraisal roll for the current year, including all appraisal roll supplements and corrections as of the date of the calculation, less the taxable value of property exempted for the current tax year for the first time
    - New Property Value generally means the total taxable value of property added to the appraisal roll in the current year by annexation and improvements listed on the appraisal roll that were made after January 1 of the preceding tax year
      - \*Currently applies to only 15 ESDs in the State\*

18

## Category 2

- Calculation of Current Debt Rate
  - Same as Category 1

• \*Currently applies to only 15 ESDs in the State\*

19

## Category 2

- UNUSED INCREMENT RATE
  - The Tax Rate that equals the greater of Zero or
    - YEAR 1 VOTER-APPROVAL TAX RATE less YEAR 1 ACTUAL TAX RATE, plus
    - YEAR 2 VOTER-APPROVAL TAX RATE less YEAR 2 ACTUAL TAX RATE, plus
    - YEAR 3 VOTER-APPROVAL TAX RATE - YEAR 3 ACTUAL TAX RATE.

• \*Currently applies to only 15 ESDs in the State\*

20

## Category 2

- **UNUSED INCREMENT RATE**
  - Intended to not punish taxing units that adopt a tax rate that is lower than Voter-Approval rate
  - Begins to accrue in 2020
    - considered zero for all prior years
- Rate is added to 3.5% increase in M&O rate and Debt rate to determine Voter-Approval Rate
  - \*Currently applies to only 15 ESDs in the State\*

21

## Category 2

- **3.5% “Voter-Approval Tax Rate”**
  - $\text{NO-NEW-REVENUE TAX RATE} = (\text{LAST YEAR'S LEVY} - \text{LOST PROPERTY LEVY}) / (\text{CURRENT TOTAL VALUE} - \text{NEW PROPERTY VALUE})$
  - $\text{VOTER-APPROVAL RATE} = (\text{NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE} \times 1.035) + (\text{CURRENT DEBT RATE} + \text{UNUSED INCREMENT RATE})$
- \*Currently applies to only 15 ESDs in the State\*

22

## Category 2

- Election Required if ESD adopts tax rate that exceeds greater of Voter-Approval Tax Rate
- If election fails, tax rate set at Voter-Approval Tax Rate

• \*Currently applies to only 15 ESDs in the State\*

23

## Category 3

Revenues are less than approximately \$6,250,000  
AND  
NOT a Special Taxing Unit

24

### Category 3

- All but about 35 ESDs in the State are Category 3
  - 20 are Special Taxing Units
  - 15 have M&O Property Tax revenue greater than \$6,250,000

25

### Category 3

- Calculation of M&O Rate
  - Same as Category 2
- Calculation of Current Debt Rate
  - Same as Category 2
- Subject to 3.5% Voter-Approval Rate
  - Same as Category 2.

26

### Category 3

- BUT only required to hold election if ESD adopts a tax rate that exceeds the greater of
  - the taxing unit 's voter-approval tax rate or
  - de minimis rate (*see next slide*).

27

### Category 3

- "De minimis rate"
  - the tax rate equal to the sum of:
    - A taxing unit 's no-new-revenue M&O rate;
    - The rate that, when applied to a taxing unit 's current total value, will impose an amount of taxes equal to \$500,000; and
    - A taxing unit 's current debt rate.
  - Allows for \$500,000 increase in total O&M revenue without required election.

28

### Category 3

- "De minimis rate"
  - Allows increase of O&M revenues up to \$500,000
    - This includes increase on "new" property
  - If that increase exceeds 8% (old Rollback Rate), then same process as old Rollback Petition process

29

### Category 3

- Election Required if ESD adopts tax rate that exceeds *de minimis* Tax Rate
- Subject to petition for election, if ESD adopts tax rate that is less than *de minimis* Tax Rate but greater than both:
  - Voter-Approval Tax Rate (3.5% + Debt Tax + Unused Increment) and
  - Special Taxing Unit Voter-Approval Tax Rate (8% + Debt Rate)

30

### Category 3

- Election Required if ESD adopts tax rate that exceeds greater of Voter-Approval Tax Rate or de minimis Tax Rate
- If election fails, tax rate set at Voter-Approval Tax Rate

• \*Currently applies to only 15 ESDs in the State\*

31

### All Categories

- **Required** Election Ballot Language
  - "Approving the ad valorem tax rate of \$\_\_\_\_\_ per \$100 valuation in (name of taxing unit) for the current year, a rate that is \$\_\_\_\_\_ higher per \$100 valuation than the voter-approval tax rate of (name of taxing unit), for the purpose of (description of purpose of increase). Last year, the ad valorem tax rate in (name of taxing unit) was \$\_\_\_\_\_ per \$100 valuation."

32



## UNLAWFUL USE OF PUBLIC FUNDS

- ESD may not knowingly spend or authorize the spending of public funds for political advertising.
  - does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure.

33

## UNLAWFUL USE OF PUBLIC FUNDS

- ESD may not spend or authorize the spending of public funds for a communication describing a measure if it contains information that:
  - “the officer or employee knows is false;” and
  - “is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.”
- An offense is a Class A misdemeanor.

34

## Disaster Relief Exception

- **IF** the governor has declared any part of the area in which the taxing unit is located as a disaster area
  - ESD may direct that voter approval rate be calculated as though Special Taxing Unit (this election lasts for at least 2 years)
  - **AND** mandatory tax rate election not required to approve the tax rate adopted by ESD for the year following the year in which the disaster occurs if there are increased expenditures necessary to respond to a disaster (not including a drought) that has impacted the taxing unit

35

## Transparency in SB 2

Internet Website Required  
and  
Hearings and Notices Revised

36

## Property Tax Reform

- Changes to Notice Requirements
  - No published notice of “No-New-Revenue Tax Rate” or “Voter-Approval Tax Rate”.
  - Notice required for **ALL** meetings to adopt tax rate
  - Only **ONE** hearing required and may not be before 5<sup>th</sup> day after notice, if tax will exceed No-New-Revenue Tax Rate
  - Board may vote on tax rate at hearing
  - **Required** to post notice on website if published instead of mailed

37

## Simplified Tax Rate Notice

- May apply to Category 1 or Category 3 ESDs
- Provide SIMPLIFIED TAX RATE NOTICE if tax rate proposed for the current tax year:
  - is 50 cents or less per \$100 of taxable value;
  - and would impose taxes of \$500,000 or less when applied to the current total value for the taxing unit.

38

## Internet Website Required

- Effective January 1, 2020, every ESD must maintain an Internet website or have access to a generally accessible Internet website
  - Tax Code, Sec. 26.18
- This applies to ALL ESDs regardless of size

39

## Sec. 26.18 Website Requirements

- Name of each Commissioner
- Mailing address, email address and phone number of the ESD
- Official contact information for each commissioner
- ESD's budget for the previous 2 years
- ESD's proposed or adopted budget for the current FY
- Budget change from last FY to current FY, in both \$ and %
- Amount of property tax revenue budgeted for M&O expenses for current FY and previous 2 FYs
- M&O tax rate adopted for current FY and previous 2 FYs
- Debt tax rate for same time periods
- Most recent financial audit

40

## And More because of 26.18!

- HB 305 applies to political subdivisions that impose a tax and “maintained a publicly accessible website at any time on or after January 1, 2019”:
  - ESD contact information (mailing/email/phone)
  - Each elected officer
  - Date and location of the next election
  - Requirements and deadline for filing for candidacy (posted at least one year before election day)
  - Each notice of meeting (i.e. agendas) from Sept 1, 2019 forward
  - Each record of meeting (i.e. minutes) from Sept 1, 2019 forward

41

## The calendar

42

## Calendar

- **January 1, 2020**
  - Post required information on required District website

43

## Calendar

- April through June - Preliminary Tax Values
  - Get these from Tax Assessor or Appraisal District
- May through July – District Budget Planning Meetings
  - ALL board meetings must be posted in compliance with the Open Meetings Act

44

## Calendar

- Late July – first week of August - Proposed Budget and Tax Rate Discussions
  - Based on preliminary values
- August 7 – Deadline to Post Tax Rate Notice on Website
  - Deadline does not apply to ESDs that can use Simplified Tax Rate Notice, BUT those ESDs still must maintain website

45

## Calendar

- August 17, 2020 – Deadline to call election for tax rate that exceeds greater of Voter Approval Rate or *de minimis* Rate
  - Applies to all ESDs regardless of revenue and tax rate

46

## Calendar

- August 24, 2020 – Deadline to conduct public hearing and adopt tax rate that exceeds greater of Voter Approval Rate or *de Minimis* Rate
  - Applies to all ESDs regardless of revenue and tax rate
  - Notice of Hearing must be published in paper AND posted on website at least 5 days before hearing (Simplified notice requirement for Small Taxing Units)

47

## Calendar

- September 30 – Deadline to hold public hearing and adopt tax rate that DOES NOT exceed voter-approval rate but exceeds no-new revenue rate
  - Notice of Hearing must be published in paper AND posted on website at least 5 days before hearing (Simplified notice requirement for Small Taxing Units)
  - If tax rate is not adopted at public hearing, tax rate must be adopted at public meeting announced at and within 7 days of public hearing (otherwise republish notice)

48



## Calendar

- September 30 - Deadline to hold public meeting and adopt tax rate that DOES NOT exceed no-new-revenue rate
  - Notice of Hearing/Meeting must be published in paper AND posted on website at least 5 days before hearing (Simplified notice requirement for Small Taxing Units)

49

## Calendar

- September 30 – Deadline to submit adopted tax rate to Tax Assessor if tax rate DOES NOT exceed voter-approval rate but exceeds no-new revenue rate
- September 30 - Deadline to submit adopted tax rate to Tax Assessor if tax rate DOES NOT exceed no-new-revenue rate

50

## Calendar

- November 3, 2020 – Election Day for approval of adopted tax rate that exceeds the greater of the voter-approval rate or the *de minimis* rate

51

## Calendar

- 90 Days after Adoption of Tax Rate - Deadline for petition for tax reduction election
  - If adopted tax rate exceeds the greater of the voter- approval rate (3.5% plus unused increment) or the voter-approval rate calculated as if for Special Taxing Unit (8%) but DOES NOT exceed the de Minimis Rate

52

