

Up Next  
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# *SB 2 Forum*



SAFE-D

19<sup>th</sup> Annual Conference

February 20-22, 2020



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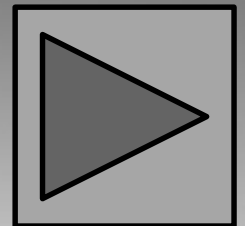


# **SAFE-D 19th Annual Conference**

**Conference credit:**

**[www.safe-d.org/2020conference](http://www.safe-d.org/2020conference)**

**DEADLINE: March 31**



# *SB 2 Forum*



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# Panel Introduction

- Ken Campbell  
Burns, Anderson, Jury &  
Brenner, L.L.P.  
Austin, Texas

- John Carlton  
The Carlton Law Firm,  
P.L.L.C.  
Austin, Texas

- Ira Coveler  
and  
John Peeler

Coveler & Peeler, P.C.  
Houston, Texas



# Changes to Process for Setting Property Tax Rates

SB 2 - 86<sup>th</sup> Texas Legislature



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# Property Tax Reform

“Effective Rate”

is now

“No-New-Revenue Tax Rate”

“Rollback Rate”

is now

“Voter-Approval Tax Rate”



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# Property Tax Reform

- Deadlines in New Tax Process
  - August 1 deadline for Certified Appraisal Roll
  - August 7 deadline for tax rate calculations **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



# Property Tax Reform

- Impact divided into three categories of ESDs
  - ESDs with M&O property tax rate of \$0.025/\$100 or less
  - ESDs with M&O property tax revenues of more than \$6,250,000
  - All other ESDs





# Category 1

## Special Taxing Units



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# 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)



# Category 1

- Currently 20 ESDs in the State are Special Taxing Units



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# 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 =  $(\text{NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE} \times 1.08) + \text{CURRENT DEBT RATE}$

# Category 1

- Calculation of M&O Rate
  - $1.08 \times$  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





# 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.



# 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



# 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 =  $(\text{NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE} \times 1.08) + \text{CURRENT DEBT RATE}$

# Category 1

- Election Required if ESD adopts tax rate that exceeds Voter-Approval Tax Rate



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# Category 2

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



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



# 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)



# Category 2

- Calculation of M&O Rate
  - $1.035 \times$  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



# Category 2

- Calculation of Current Debt Rate
  - Same as Category 1



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# 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.





# 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



# 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)



# Category 2

- Election Required if ESD adopts tax rate that exceeds Voter-Approval Tax Rate



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# Category 3

M&O Revenues DO NOT Exceed \$6,250,000  
**AND**  
NOT a Special Taxing Unit



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# Category 3

- All but 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





# Category 3

- Subject to 3.5% Voter-Approval Rate same as Category 2.
- **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.



# 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 revenue without required election.



# Category 3

- Calculation of M&O Rate
  - Same as Category 2
- Calculation of Current Debt Rate
  - Same as Category 2



# Category 3

- "De minimis rate"
  - **BUT**, if *de minimis* rate exceeds Voter-Approval tax rate and adopted tax rate is:
    - equal to or lower than the taxing unit's *de minimis* rate; and
    - greater than the greater of the taxing unit 's:
      - voter-approval tax rate calculated as if the taxing unit were a special taxing unit (8%); or
      - Voter-approval tax rate (3.5% plus Debt rate).
  - **THEN**, subject to voter petition for election.

# Category 3

- "De minimis rate"
  - Allows increase of revenues up to \$500,000
  - If that increase exceeds 8% (old Rollback Rate), then same process as old Rollback Petition process





# Category 3

- "De minimis rate"
  - If M&O revenues are  $\leq$  \$6,250,000, then *de minimis* increase of \$500,000 would be more than 8%
  - If M&O revenues are less than \$6,250,000, then *de minimis* increase of \$500,000 would be less than 8%, and ESD is impacted by SB 2 property tax



# 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)



# 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."



# Disaster Relief Exception

- Election not required to approve the tax rate adopted by ESD for the year following the year in which the disaster occurs if:
  - Increased expenditure necessary to respond to a disaster (not including a drought) that has impacted the taxing unit, and
  - The governor has declared any part of the area in which the taxing unit is located as a disaster area



# Forum Questions?

- Ken Campbell
  - Burns, Anderson, Jury & Brenner
- Ira Coveler
  - Coveler & Peeler
- John Carlton
  - The Carlton Law Firm



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# Transparency in SB 2

Internet Website Required  
and  
Hearings and Notices Revised



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# 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 on website if publish notice



# 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.



# 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



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# SB 2

## False Website Exception

- **SECTION 107.** A taxing unit that does not own, operate, or control an Internet website is not required to comply with Sections 26.05(b)(2) and 26.065(b), Tax Code, as amended by this Act, until the first tax year in which the taxing unit is required by law to maintain or have access to an Internet website.





# 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





# 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



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