

Bond Elections & VATREs: With Legislative Updates

Texas Secretary of State
37th Annual Election Law Seminar
for Cities, Schools, and Other Political Subdivisions

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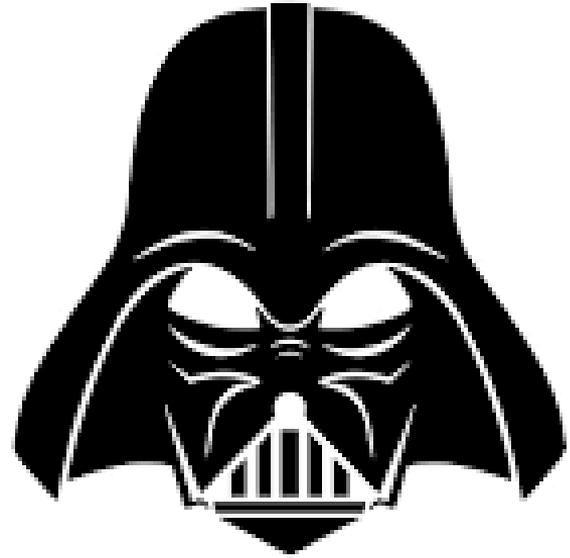
Agenda

- Common themes for special elections involving public finance:
 - Ethics
 - Measures versus propositions
 - Notice
 - Databases
- Bond elections and voter-approval tax rate elections (VATREs):
 - “Calling” the election
 - Notice of election
 - Tips
- Q&A
 - TMCA/TACEO discussion groups

What's In A Name?



Call me Rose



DARTH
VADER

Call me vat-tree

Glossary

CSO	City, School, Other Political Subdivision
EC	Texas Election Code
Ed. C	Texas Education Code
GC	Texas Government Code
SD	Texas Special District Local Laws Code
TAC	Texas Administrative Code
TC	Texas Tax Code
Tex. Const.	Texas Constitution
WC	Texas Water Code



New law alert

No Political Advertising Once The Election Is Ordered

- Officers or employees **cannot** spend public resources on “political advertising”
 - Resources include time, copiers, computers, phones, etc.
- Information is ok, but any subjective words can be construed as advocacy
 - Pictures and graphics may be inappropriate. Such as: 
- Enforcement is not what it used to be:
 - Texas Ethics Commission
 - **SB 12** gives the Texas Attorney General power to prosecute election-related crimes



Sources: Tex. Const. art. III, § 51, § 52(a); EC § 255.003; Ed. C § 11.169.

Measures Versus Propositions

- A “measure” is the legal question submitted to the voters
- A “proposition” is the summary of the measure that appears on the ballot

Sources: EC § 1.005(12 & 15).

When Do We Need The Ballot Language?

When a special election is “called” (that is, ordered):

- The order/ordinance must contain at least one measure
- The order/ordinance should also contain at least one proposition

Sources: EC § 3.006 (requires the “measure” but see the relationship to “proposition”); authorizing law for the election at issue (for example, EC § 3.006 (“debt obligation orders”)); see also SOS Forms 1-7 to 1-9.

More About Propositions

- The proposition is a single statement *unless* otherwise provided by law
- The wording is discretionary *unless* otherwise provided by law
- Each proposition is assigned a unique *letter* with the CSO's name
- The CSO has discretion to list multiple propositions in the order it prefers



- *Dacus v. Parker*, 466 S.W.3d 820, 826, 829 (Tex. 2015) requires a proposition to identify the “chief features” of the measure, including “its character and purpose”
- **SB 506** (amending EC § 52.072):

“A proposition must submit the question with such definiteness, certainty, and facial neutrality that the voters are not misled”

Sources: EC § 52.072, § 52.095, § 2.053.

SB 1025: Ballots For What?



To **impose** or increase a tax rate (like a VATRE),

- Add “THIS IS A TAX INCREASE” “*at the top* of the proposition” in ALL CAPS
- The remainder of the proposition must be sentence-case like this line
- Include the amount of tax or maximum rate (which is redundant of other law)

The Texas Attorney General says this bill indirectly applies to all bond elections and implicitly modifies the Education Code for ISD ballots; therefore, consult your attorney

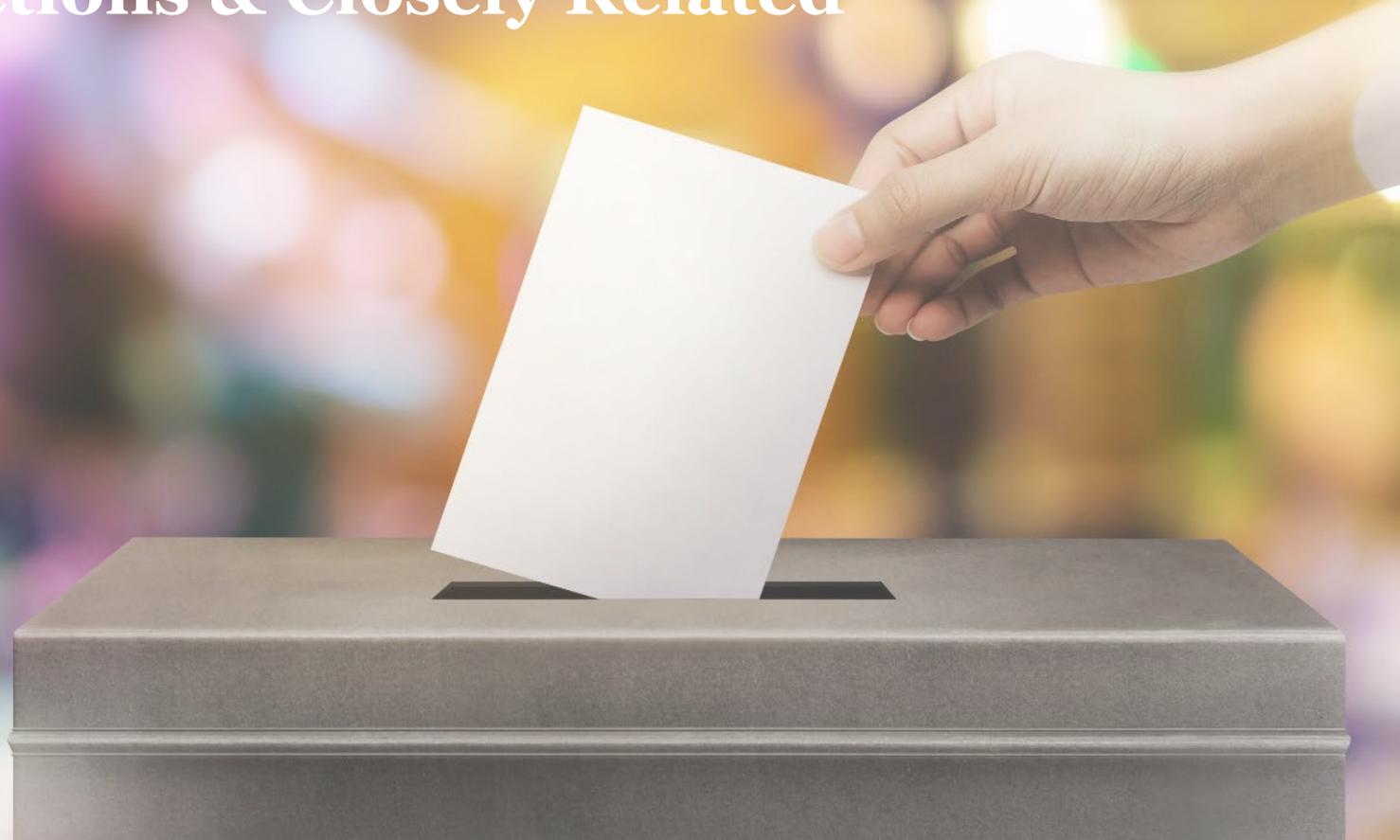
Amending EC § 52.072(e) (tax rate ballots);
contrast EC § 52.072(f) (debt obligation ballots); Tex. Educ. Code § 45.003(b-1) (school bond ballots);
All Bond Counsel Letter (July 30, 2025).

Data About Debt And Tax Elections



- Sources before the 89th Legislative Session:
 - The Municipal Advisory Council of Texas (MAC of Texas)
 - Texas Bond Review Board (BRB)
 - Texas Comptroller (debt, local sales tax)
- New laws require similar but not identical data:
 - **HB 3526** requires local governments to provide bond *election* data to BRB
 - **HB 103** requires:
 - Taxing units to provide data to the Comptroller about bond elections, VATREs & maintenance & operations tax rate elections
 - Phased for historical data and 2025-2026 data
 - NO single data portal
 - **SB 843** authorizes the Texas Education Agency to create a database

Bond Elections & Closely Related



When Do We Need An Election?

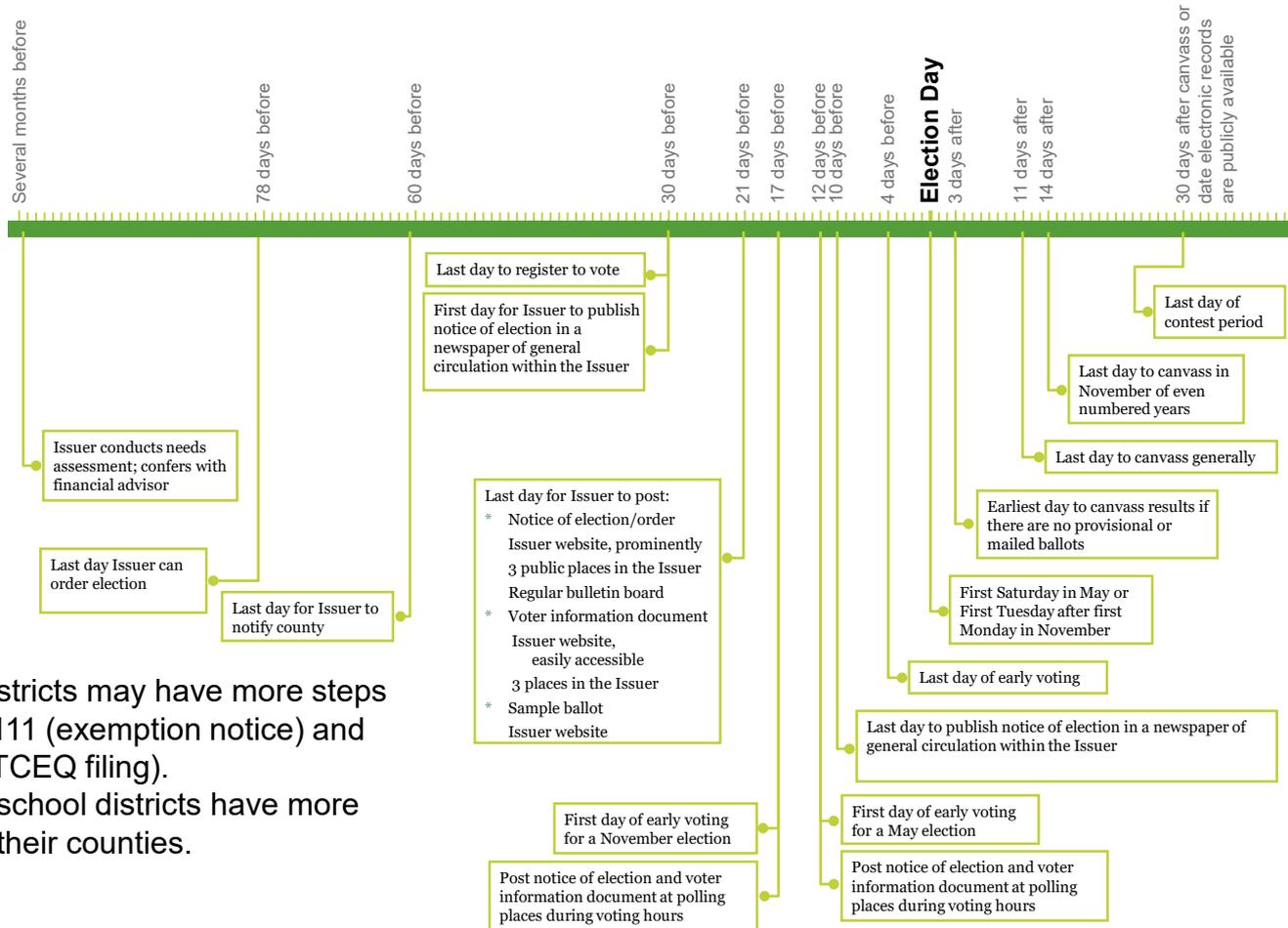
- There are two main types of “public securities” (like a loan but heavily regulated):
 - Those secured by revenue
 - Like revenue bonds
 - Those secured by ad valorem property tax
 - Like tax notes and refunding bonds (refinancing)
- General Obligation Bonds (GOs) require an election
- Repurposing bond proceeds requires an election
- Repurposing bond-purchased resources requires an election
- Certificates of Obligations (COs) might require an election if petition accepted

The Texas Attorney General Grades The Papers

- Confirmation the election was properly ordered and canvassed
- Confirmation the election was properly noticed:
 - Affidavit or certificate of posting by the CSO
 - Affidavit of publication from the newspaper with tear sheet
 - Affidavit or certificate of posting by the county
- Special districts:
 - Proof of creation and boundaries
 - TCEQ approvals

Sources: GC § 1202.003, § 1202.004 (fee); 1 TAC ch. 53.

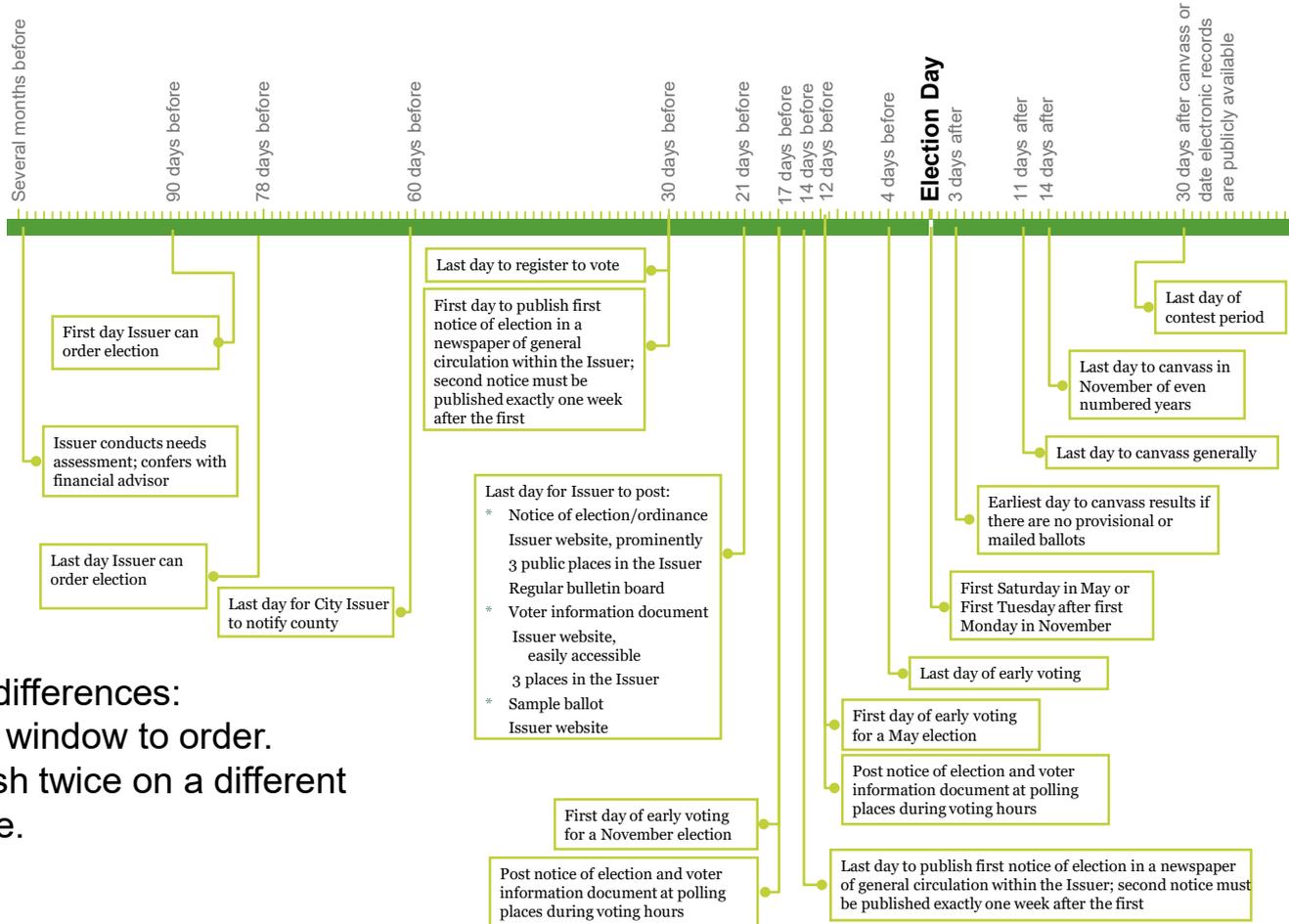
Bond Election Process For Schools & Special Districts*



*Special districts may have more steps (WC § 49.111 (exemption notice) and § 49.054 (TCEQ filing).

*Common school districts have more steps with their counties.

Bond Election Process For Cities & Counties*



*Main differences:
Short window to order.
Publish twice on a different timeline.



These Flowcharts Will Change When SB 2753 Is Implemented

When Do We Order The Bond Election?

- Not later than 78 days before a uniform election day
 - *Either* the May or November uniform date, regardless of when the CSO conducts its general election (beware differences in May and November elections)
 - There is no waiting period between failed bond elections
 - For some entities, there is no “start date” or earlier than date
- But there is a “start date” for cities and counties resulting in a tight “call window”:
 - Not more than 90 days or less than 78 days before election day
 - Ensure all readings occur before the deadline *if* needed; you can skip multiple readings
- Special districts may have prerequisites before the call:
 - Engineering report (common for districts controlled by the Water Code)

Sources: EC § 3.005(b), § 3.002; GC § 1251.003(c), § 1201.028; WC § 49.106.

“Debt Obligation” Election Orders/Ordinances

For bond elections and elections authorizing COs, include the following financial information, which overlaps with the “voter information document.”

- Ballot proposition
- Purpose of the authorization
- Amount of debt to be authorized
- Taxes sufficient to pay the principal and interest will be imposed
- Estimated tax rate to pay the debt **or** the maximum interest rate of the debt
- Maximum maturity on the debt (usually 40 years or the statutory limit)
- Outstanding principal (as of the date of the order)
- Outstanding interest (as of the date of the order)
- Debt service tax rate (as of the date of the order) per \$100 valuation of taxable property

Bond Measures Generally

- Consult the authorizing law
 - Bonds cannot finance everything
 - Generally, no statutorily required language
 - Usually formatted as a question
- One purpose = one measure = one proposition
 - The measure is the “contract with the voters”
 - Where to go if bond proceeds are left over

Bond Propositions Generally

- Ballots printed “for” or “against” (not yes/no)
- Starting with: “The issuance of bonds”
- Amount to be authorized
- “Plain language description” / “general description”
- Taxes sufficient to pay the principal and interest will be imposed
- Don’t forget *Dacus v. Parker* (chief features of the measure)
- Don’t forget SB 506 (facial neutrality)
- Don’t forget All Bond Counsel Letter (July 30, 2025) (adding “THIS IS A TAX INCREASE” from SB 1025 to all bond elections)



Sources: GC §151.005, § 1251.052 (2 versions: SB 30 / HB 477).

Measures/Propositions For ISDs (Not Colleges)

- One measure/proposition for “general” school purposes:
 - School buildings
 - Land
 - Buses (new or retrofitting school buses with safety equipment)
- Some specific purposes require separate measures/propositions:
 - Stadium with seating of 1000 or more
 - Natatorium
 - Recreational facility “other than a gym, playground, or play area” (that is, athletics)
 - Performing arts facility
 - Teacher housing
 - Technology other than “school security” or “integral to the construction” of a building
- Ask your bond attorney where to put: THIS IS A PROPERTY TAX INCREASE

Contents Of Orders For Special Districts

Generally, the same as other entities but exceptions exist, such as:

- Summary of an engineering report (particularly for entities under the Water Code)

Consult your attorney about the impact of **SB 1540** (chosen confidentiality for current or former election officials) if your special law asks for the:

- Presiding judge for each polling place
- Alternate judge for each polling place
- Presiding election officers



Sources: WC § 49.106 & Samples: SD § 8509.0304 (Palo Duro Water District), § 1100.253 (South Randall County Hospital District), § 1117.253 (Yoakum Hospital District).

Additional Contents:

Why is bond counsel making this so long?

- Contracting methods, if any
- Ballot type (paper, electronic)
- Counting method (central count or not)
- Appointment of election officials (early voting ballot board, etc.)
- Boiler plate:
 - Texas law applies
 - Open meetings satisfied
 - Amending authority (important if county polling details change)
- “Voter Information Document”

Sources: 1 TAC § 53.41, § 53.61.

Voter Information Document

- For **each** proposition **if** there are 250+ registered voters in the CSO when the election is ordered (usually everyone but new districts governed by the Water Code)
- **Table** with:
 - Principal to be authorized
 - Estimated interest
 - Estimated combined principal and interest to pay in full
 - Principal of “all” outstanding debt obligations calculated on the date the election is called
 - Estimated interest on “all” outstanding debt obligations
 - Estimated combined principal and interest required to pay on time and in full all outstanding debt
 - Estimated tax impact on a homestead valued at \$100,000 with assumptions explained:
 - The amortization period
 - Changes in estimated future appraised values
 - Assumed interest rate on the proposed debt
 - Any other information the CSO considers relevant or necessary

Source: GC § 1251.052 (HB 477).

Contents Of A Notice For A Bond Election

- A bond election notice may look almost exactly like the order/ordinance
 - Bond counsel is juggling the EC, GC, TAC, etc.
 - It's simpler (and safer) to treat all forms of notice the same way
- Contents:
 - ***Proposition***
 - Nature and date of the election
 - Location of each election day and main early voting place
 - Hours these polls will be open
 - Contact information for the early voting clerk

Sources: EC § 4.004, § 83.010, § 85.004, § 85.007; GC § 1251.003; 1 TAC chapter 53,
SOS Forms 1-13 & 1016.

County Notice Is More Important Than Ever

- Deadline is no later than 60 days before election day
- Sent by mail, fax, or email to:
 - County clerk and voter registrar of each county the CSO is in, or
 - The elections administrator
- Dates, hours, and places of early voting (will this information be available?)
- County must post to its website at least 21 days before election day
 - Who is saving the screen shot required by the Attorney General?

Sources: EC § 4.008, § 4.003(b).

Post At Least 3 Things In Areas The CSO Controls

Not later than 21 days before election day through the day *after* election day:

1. Notice of election in all required languages:
 - On the bulletin board used to post meeting notices of the governing body
 - On the CSO’s website at a “prominent” location
 - At three additional public places
 2. Sample ballot in all required languages on the CSO’s website
 3. “Voter Information Document” if applicable and not included in the notice or order/ordinance:
 - In three public places
 - On the CSO’s website in an “easily accessible” location
- Election order: belts and suspenders
 - Any home-rule city charter or special district requirements?

Posting At Polling Places During Voting Hours

1. Notice of election in all required languages
 2. “Voter Information Document” if applicable and not included in the notice
- Is the CSO contracting with its county to run its election?
If so, offer to supply these items in the number and format the county prefers
 - Special districts (especially water districts) contracting with a county:
Coordinate any voter requirements (such as affidavits for confirmation elections)

Sources: EC § 4.003; GC § 1251.003; WC § 49.1025.

Publish Notice Of Election In All Required Languages

- When?
 - Cities and Counties:
 - On the same day in two consecutive weeks
 - First publication not more than 30 days or less than 14 days before election
 - Any home-rule charter requirements?
 - Schools and Districts controlled by the Water Code:
 - Not more than 30 days or less than 10 days before the election
 - Special Districts:
 - Might be more than once on a different timeline; do it all (harmonize)
- Where?
 - In a newspaper of general circulation

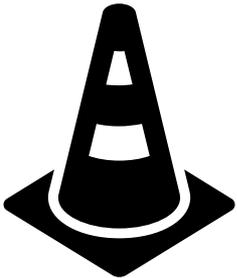


Newspaper Relief

SB 1062:

Allows a notice of election to be published in a digital newspaper if the paper:

- Has an **audited** paid-subscriber base
- Has been in business for at least 3 years
- Employs staff in your jurisdiction
- Reports on local events and governmental activities
- Provides news of general interest
- Updates its news at least once each week



Amending Government Code § 2051.0441.

Canvassing Tips

- Proceed as you normally would
- Water Districts:
 - Election results must be filed with the county clerk and TCEQ
- Special Districts:
 - A supermajority (often 2/3) may be needed for passage of the bond measure
 - For example, Liberty County Municipal Management District No. 1 (SD § 3795.201)
 - Election results may need to be filed with the county clerk
 - For example, Wood County Central Hospital District (SD § 3795.201)

Sources: WC § 49.455, 49.102.

VATREs (formerly, a TRE)

A hand is shown from the right side of the frame, holding a white ballot paper and placing it into a slot on top of a grey ballot box. The background is a blurred bokeh of colorful lights in shades of purple, blue, and yellow.

A kind of
referendum
to repeal an
adopted tax
rate.

Basic Idea

- If a governing body adopts a tax rate that exceeds the voter-approval tax rate (VATR), it triggers an election for the uniform date in NOVEMBER
 - November elections must be ordered by mid-August
 - When does your entity usually adopt a tax rate?
 - Does your entity usually have a May general election?
- See the Comptroller forms for required truth-in-taxation notices
- See the Comptroller forms for calculating the VATR
 - Different growth rates apply to different entities
 - Different components of the calculation apply to different entities

Sources: EC § 3.005, § 3.006, § 83.010, § 85.004, § 85.007, § 26.07 (allows a rate to be adopted 71 days before the November election but treat this reference as a typo), § 26.08.

Communicate & Plan For Any Post-Election Actions

- It's a good idea to keep the tax assessor-collector informed
 - That office may hold tax bills to save costs
 - Election results may require refunds if bills have gone out
- If the measure fails, then the tax rate is limited to the voter-approval tax rate
 - Automatic “fall back” for non-ISDs
 - ISDs will need to pass a new tax rate
 - Unlike the canvass (quorum of 2), you'll need a regular quorum
 - No need to republish truth in taxation notices

Sources: Tax § 26.07 (non-ISD elections), § 26.08 (ISD elections).

Statutory Ballot Language: Non-ISDs

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.



SB 1025:

Add “THIS IS A TAX INCREASE” “at the top of the proposition”

The remainder of the proposition must be sentence-case like this line

Consult your attorney on what “at the top” means

Sources: TC § 26.07(c); Comptroller Form 50-861.

Statutory Ballot Language: ISDs

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)*.

SB 1025:

Add “THIS IS A TAX INCREASE” “at the top of the proposition”
The remainder of the proposition must be sentence-case like this line



Consult your attorney on what “at the top” means

Sources: TC § 26.08(c), Comptroller Form 50-863.

Automatic Elections Preferred Over Petition-Driven Elections

Petitions are still possible but do not apply to:

- Special taxing units
- School districts
- Cities with a population of 30,000 or more
- When the de minimis tax rate is less than the voter-approval tax rate

Sources: TC § 26.075, 26.012(19) (defining special taxing units); Comptroller Forms 50-862 & 50-866.

Proceed As Normal (This Is Not A Bond Election)

- Provide the CSO's county/counties with notice no later than 60 days before election day
- Post notice as you normally would
- Provide additional notice as you normally would
 - Cities and counties publish at least once not earlier than the 30th day or later than the 10th day before election day
 - Other entities can use mailers or precinct notices
- Canvass as you normally would
 - But follow up with your tax assessor-collector
 - ISDs: remember to adopt a new tax rate (or last year's rate applies)

Resources

All entities should consult the Comptroller's website:

- Tax rate calculation worksheets
- Notices related to tax rates
- Ballots and petitions

School districts:

- TASB (resources are now behind a pay wall)
- TASBO
 - Free online toolkit
 - Members receive calculation assistance

Cities:

- TML has free online resources

Any Questions?
Thank you!