

Senate Bill 2 Explanatory Q&A

(800) 456-5974 • county.org • @TexasCounties



The purpose of this paper is to answer some of the most commonly asked questions about Senate Bill 2, provide insight into the new terminology introduced by the bill, and identify the components that will be used to calculate a county's tax rate. This paper includes references to both the code sections being impacted, as well as reference to the specific section and page number within SB 2 to help expedite your review.

Summary

[Senate Bill 2](#), by Sen. Paul Bettencourt (R-Houston), the *Texas Property Tax Reform and Transparency Act of 2019*, makes substantial changes to the property tax system. The bill compresses the capability of a local government to generate revenue and provide services by lowering the tax rate a county can adopt without a rollback election, now mandatory. SB 2 also makes changes to the process a county uses to adopt a tax rate, the manner in which a county calculates the tax rate, and the tax appraisal process.

Most of the provisions of SB 2 will not be effective until January 2020. For counties with a population of fewer than 200,000, the majority of the bill will not be effective until January 2021.

It is important to note that the Texas Comptroller of Public Accounts will disseminate new forms to assist all taxing entities in calculating a tax rate for 2020. The Comptroller anticipates the forms and sample templates will be available in the spring of 2020.

When does SB 2 go into effect?

There is no uniform effective date for all the provisions within SB 2. Generally, most of the provisions of SB 2 will become effective in January 2020. For counties with a population of fewer than 200,000, the majority of the bill will not be in effect until January 2021. A more specific breakdown of when each bill provision and tax code modification will take effect follows:

- ▶ The bill repeals Tax Code Section 42.23(i), which outlines the scope of review by a district court of a party who appeals the property value. This provision will be effective Sept. 1, 2019 (Section 92, page 138).
- ▶ SB 2 requires that, by Sept. 25, 2019, the designated officer or employee of a taxing unit must submit to their county tax assessor-collector the worksheets used by the taxing unit to calculate the effective and rollback tax rates for the 2015-2019 tax years. The tax assessor-collector must post the worksheets to the website of the county (Section 106, page 141).
- ▶ Revisions made in SB 2 affecting the formation, functions, appointment and responsibility of an appraisal review board, an auxiliary board, or special appraisal review board panel will not take effect until Jan. 1, 2020. Texas Tax Code §§ 6.41(b), (b-1) to (b-2), (d-9) to (d-10), 6.414(d), and 6.425; (Section 121, page 146). Likewise, changes to the process of protesting the appraised value of a property and the process and procedures of a protest hearing, will not take effect until Jan. 1, 2020. Texas Tax Code §§ 41.44(d), 41.45(d), (d-1) to (d-3), 41.66(k), (k-1); (Section 121, page 146).

- ▶ The revisions made in SB 2 affecting the notice of appraised value, the submission of a tax roll to the governing body and the effective tax rate and rollback tax rates (SB 2 changes the names of these rates and the calculation of the rollback rate — discussed in more detail below), will take effect Jan. 1, 2021. Texas Tax Code §§ 25.19(b-3), (b-4), 26.04(d-1) to (d-3), (e-1), (e-5), (g), and 26.05(e); (Section 121, page 146 & 147).
- ▶ Lastly, revisions made to the notice of appraised value will take effect Jan. 1, 2022. Texas Tax Code § 25.19(b) and (i); (Section 121, page 147).

If an appraisal district has a population of 200,000 or more, the district, and each taxing unit located wholly or primarily in such an appraisal district, must comply with statutory changes made to the information each property owner will receive, the postings of the tax rate and the tax rate calculation, and the creation and maintenance of the property tax related database by the 2020 tax year. Texas Tax Code §§ 26.04(e-2), 26.05(d-1) to (d-2), 26.17, and 26.18; (Section 105, page 141).

Each appraisal district established in a county with a population of fewer than 200,000, and each taxing unit located wholly or primarily in such an appraisal district, must comply with the statutory changes made to the information each property owner will receive, the postings of the tax rate and the tax rate calculation, and the creation and maintenance of the property tax related database by the 2021 tax year. Texas Tax Code §§ 26.04(e-2), 26.05(d-1) to (d-2), 26.17, and 26.18; (Section 105, page 141).

What terminology was changed?

Currently, the “effective tax rate” refers to the tax rate a county would need in order to raise the same amount of property tax revenue after taking into account changes in appraised values. SB 2 changed the terms “effective tax rate” and “effective maintenance and operations tax rate” to “no-new-revenue tax rate” and “no-new-revenue maintenance and operations tax rate” respectively. The formula for calculating the no-new-revenue tax rate and no-new-revenue maintenance and operations tax rate did not change. Adding Texas Tax Code § 1.045; (Section 2, page 1).

Currently, the term “rollback tax rate” is the maximum tax rate that a county is permitted to set without voter approval. The rollback rate for a county is the effective maintenance and operations rate multiplied by 1.08, then adding the current debt rate. SB 2 changes the term “rollback tax rate” to “voter-approval tax rate.” Adding Texas Tax Code § 1.045; (Section 2, page 1).

	Current terminology		New SB 2 terminology
	Effective tax rate	▶	No-new-revenue tax rate
Effective maintenance and operations tax rate		▶	No-new-revenue maintenance and operations tax rate
	Rollback tax rate	▶	Voter-approval tax rate

How does SB 2 modify the calculation of a county’s rollback tax or voter-approval tax rate?

Currently, a county has the ability to increase its tax rate 8% above its effective tax rate without triggering a possible voter-approval (a.k.a., rollback) election. SB 2 lowers the rollback rate, re-named the voter-approval tax rate, to 3.5% (and changes the multiplier from 1.08 to 1.035 as seen in the equation below). If a county adopts a tax rate greater than the voter-approval tax rate, an automatic election will be triggered for November.

$$\text{Voter-approval rate} = (\text{No-new-revenue maintenance and operations rate} \times 1.035) + \text{Current debt service tax rate}$$

The voter-approval tax rate can be further modified by special adjustments, such as including any unused increment rate, by utilizing the de minimis rate or utilizing special provisions that pertain to a county with a hospital district, a county that experienced a natural disaster, or a county that incurred indigent defense expenses among other considerations. These terms and calculations are discussed below.

What is the unused increment rate?

Included within the voter-approval rate calculation in SB 2 is a new term called the “unused increment rate” (not shown in the above calculation). The “unused increment rate” is the difference between the adopted tax rate and the voter-approval rate (provided the adopted tax rate does not exceed the voter-approval rate). A county would have the ability to save, or “bank,” up to three years of unused increments. The banked unused increment rate can be used by a county to exceed the voter-approval rate without automatically triggering an election. SB 2 stipulates all counties will start the 2020 tax year with an unused incremental rate of zero. Texas Tax Code § 26.013(c); (Section 34, page 33).

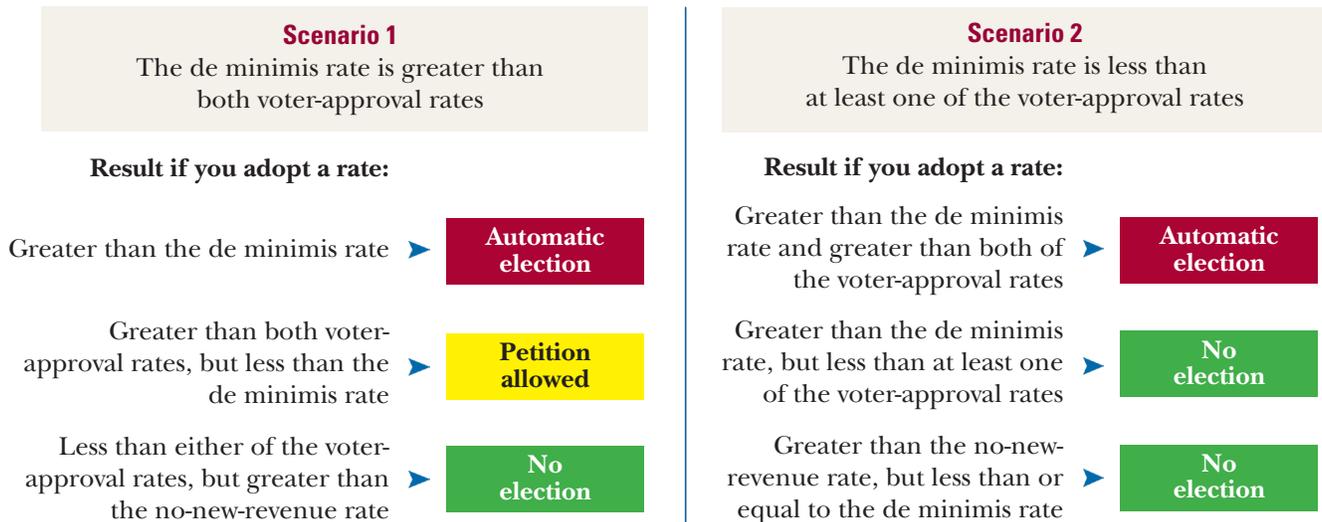
What is the de minimis rate?

The “de minimis rate” is another new term and tax rate calculation introduced in SB 2. There is no specific population bracket or tax levy amount associated with the use of the de minimis rate. Each county is authorized to raise an additional \$500,000 without triggering an automatic rollback election (now called the voter-approval election) even if it were to exceed the voter-approved tax rate. Texas Tax Code § 26.012; (Section 32, page 31). The de minimis rate is defined as the sum of:

1. The taxing unit’s no-new-revenue maintenance and operations rate;
2. The rate that, when applied to the taxing unit’s current total value, will impose an amount of taxes equal to \$500,000; and
3. The taxing unit’s current debt rate.

Texas Tax Code § 26.012(8-a); (Section 32, page 31).

If a county uses the de minimis rate, the county must provide notice of the proposed tax increase and hold a public hearing, just as the county would do in proposing an adopted tax rate above the no-new-revenue tax rate. Texas Tax Code § 26.061; (Section 49, page 73). If the county adopts a tax rate that exceeds the greater of the voter-approval rate or the de minimis rate, the county is subject to an automatic voter-approval election. Texas Tax Code § 26.07; (Section 51, page 82). A county that adopts a tax rate greater than both the voter-approval rate (3.5%) and the voter-approval rate calculated as if the taxing unit were a special taxing unit (8%) but less than or equal to the de minimis rate, is subject to a voter-approval election if a petition is signed by 3% of the county’s qualified voters. Texas Tax Code § 26.075(b)(2)(B)(i); (Section 52, page 87).



Note: “Voter-approval rates” refers to the standard voter-approval rate (3.5%) used by taxing entities that are not special taxing units and the special taxing unit voter-approval rate (8%).

Will SB 2 compress the timeline and procedures for approval of a tax rate that exceeds the voter-approval rate?

Yes. Currently, any rate adopted that exceeds the 8% rollback rate triggers the ability of citizens to petition to hold an election to “roll back” the tax rate to the rollback rate. SB 2 requires a county to hold an automatic election on the November uniform election date if the county adopts a rate exceeding the greater of the voter-approval tax rate or the de minimis rate. Texas Tax Code § 26.07; (Section 51, page 82).

SB 2 will dramatically compress the timeline for the administrative work that must be completed in hopes of scheduling a November election. This includes counties’ and other taxing entities’ requirements to calculate the necessary rates, publish notice of required hearings, and adopt a tax rate.

What other adjustments can be made to the 3.5% voter-approval rate?

► Eligible County Hospital Expenditures

SB 2 adds an adjustment to the no-new-revenue maintenance and operations rate — and therefore also the voter-approval rate — for eligible county hospital expenditures. Texas Tax Code § 26.0443; (Section 43, page 54). The definition of “eligible county hospital” includes a hospital that is owned or leased jointly by a county. If a county makes eligible county hospital expenditures and the expenditures exceed the amount of the same expenditures from the preceding tax year, the county may increase its no-new-revenue maintenance and operations tax rate by the lesser of the rates computed, according to the formulas provided in statute. Texas Tax Code § 26.0443(b); (Section 43, page 54-56).

► Natural Disaster Provisions

If, during the current tax year, a county is located in an area declared a disaster by the governor or by the president of the United States, the county can use a voter-approval tax rate using 8% instead of 3.5%. A county can continue to use 8% until:

1. The second tax year in which the total taxable value of property in the county exceeds the total taxable value of property taxable by the county on Jan. 1 of the tax year in which the disaster occurred; or
2. The third tax year after the tax year in which the disaster occurred.

Texas Tax Code § 26.04(c-1); (Section, page 36-37).

► Indigent Defense Compensation Expenditures

SB 2 adds an adjustment for county indigent defense expenditures for the amount paid by a county to provide appointed counsel for indigent individuals in criminal or civil proceedings. If the county’s indigent defense compensation expenditures exceed the amount of those from the preceding year, the no-new-revenue maintenance and operations rate for the county is increased by the lesser of the rates computed according to the following formulas:

1. $(\text{Current Tax Year's Indigent Defense Compensation Expenditures} - \text{Preceding Tax Year's Indigent Defense Compensation Expenditures}) / (\text{Current Total Value} - \text{New Property Value})$; or
2. $(\text{Preceding Tax Year's Indigent Defense Compensation Expenditures} \times 0.05) / (\text{Current Total Value} - \text{New Property Value})$

Texas Tax Code § 26.0442; (Section 43, pages 53 & 54).

► Relief for Pollution Control

SB 2 provides for an increase in the voter-approval rate equal to the amount spent out of its maintenance and operations funds to pay for a facility, device or method for the control of air, water or land pollution that is necessary to meet the requirements of a permit issued by the TCEQ. Texas Tax Code § 26.045(a), (c), (i); (Section 45, page 56).

Does the voter-approval rate calculation include new property?

No. New property is not included in the SB 2 property tax rate calculation. SB 2 did modify the multiplier in the voter-approval tax rate calculation, reducing it from 1.08 to 1.035 (8% to 3.5%). The new 1.035 multiplier is applied to the no-new-revenue maintenance and operations tax rate, which used to be called the effective maintenance and operations tax rate. The effective maintenance and operations tax rate excluded new property value from the calculation, and the no-new-revenue maintenance and operations rate calculation continues to do so.

What happens if voters don't approve a county tax rate exceeding the voter-approval rate?

If voters do not approve the county's adopted tax rate at a tax rate approval election, the county's rate for the current tax year is set at the greater of the voter-approval tax rate or the de minimis rate. Texas Tax Code § 26.07(e). If property owners pay their taxes using the originally adopted tax rate and the voters ultimately reject that rate at an election in November, the county must refund the difference between the amount of taxes paid and the amount of taxes due under the voter-approval tax rate. Texas Tax Code § 26.07(g).

Does SB 2 require a county to create a website?

Yes. SB 2 requires every county to either maintain an Internet website or have access to a generally accessible internet website that may be used for the purposes of posting tax rate and budget information. Texas Tax Code § 26.16(a); (Section 56, page 90).

SB 2 exempts counties from certain website posting requirements, but there is no exemption for the new requirement to post tax rates and budget information added to Section 26.16. This new website requirement will apply to all counties, effective Jan. 1, 2020.

Note: It is estimated that a small number of counties may not currently maintain a website. In addition to the initial expense of creating a website, there are multiple statutes that require the posting and updating of certain information on the county website. When considering the proposed budget, a county that will be adding a website in January 2020 should include sufficient funding to create and maintain it. [TAC County Information Resources Agency](#) (TAC CIRA) can provide additional assistance with website hosting.

What is a county required to post on its website under SB 2?

Each county is required to maintain and post the following to its website or generally accessible internet website:

1. The name of each member of the commissioners court;
2. The mailing address, email address and telephone number of the county;
3. The official contact information for each member of the commissioners court;
4. The county's budget for the previous two years;
5. The county's proposed or adopted budget for the current year;
6. The change in the amount of the county's budget from the preceding year to the current year, by dollar amount and percentage;
7. The amount of property tax revenue budgeted for maintenance and operations for the current year and previous two years;
8. The amount of property tax revenue budgeted for debt services for the current year and previous two years;
9. The tax rate for maintenance and operations adopted by the county for the previous two years;
10. The tax rate for debt service adopted by the county for the previous two years;
11. The tax rate for maintenance and operations proposed by the taxing unit for the current year;
12. The tax rate for debt service proposed by the taxing unit for the current year; and
13. The most recent financial audit of the county.

Texas Tax Code § 26.18; (Section 57, pages 97-99).

What is the property tax database?

SB 2 requires the chief appraiser of each appraisal district to create and maintain a property tax database that: (1) contains information that is provided by taxing units located in the appraisal district; (2) is continuously updated as preliminary and revised data becomes available and is provided by the designated officers or employees of taxing units; (3) is accessible to the public; and (4) is searchable by property address and owner. Texas Tax Code § 26.17(a); (Section 57, page 93).

The property tax database is required to include various types of information with respect to each property listed on the appraisal roll for the appraisal district. A county's designated officer or employee is required to electronically incorporate the following information into the database as the information becomes available:

1. The no-new-revenue tax rate and the voter-approval tax rate;
2. The proposed tax rate;
3. The date, time and location of the public hearing, if applicable, on the proposed tax rate;
4. The date, time and location of the public meeting, if applicable, at which the tax rate will be adopted; and
5. The completed tax rate calculation forms.

Texas Tax Code § 26.17(e); (Section 57, page 96).

Can a taxing unit reduce funding or compensation to first responders to comply with the 3.5% voter-approval rate calculation?

For the 2020 fiscal year, taxing units may not adopt a budget or take any other action that decreases the total compensation to which a first responder employed by the taxing unit was entitled to in the preceding fiscal year. (Section 119, page 145).

THIS PUBLICATION IS A RESEARCH TOOL AND NOT THE COUNSEL OF AN ATTORNEY. THIS PUBLICATION IS NOT A SUBSTITUTE FOR THE ADVICE OF AN ATTORNEY. It is provided without warranty of any kind and, as with any research tool, should be double checked against relevant statutes, case law, attorney general opinions and advice of legal counsel e.g., your county attorney.