

The Texas Education Agency (TEA) proposes new §61.1000, concerning maximum compressed tax rate calculation and data collection. The proposed new section would reflect changes made by House Bill (HB) 3, 86th Texas Legislature, 2019, by explaining how TEA will collect data and calculate and make available maximum tier one tax rates using local property values.

BACKGROUND INFORMATION AND JUSTIFICATION: HB 3, 86th Texas Legislature, 2019, enacted Texas Education Code (TEC), §48.2551, Maximum Compressed Tax Rate, which provides the calculation to develop the maximum compressed tax rates (MCRs) for school districts. TEA will calculate and make available the maximum tier one tax rate for each district on an annual basis.

Proposed new §61.1000, Maximum Compressed Tax Rate Calculation and Data Collection, would clarify the data collection necessary for TEA to calculate and make available school districts' maximum maintenance and operations compressed tax rates using locally certified values to make calculations under TEC, §48.2551.

Proposed new subsection (a) would establish that the new rule is made pursuant to TEC, §48.011 and §48.004, to address calculations in TEC, §48.2551.

Proposed new subsection (b) would set forth the method used to calculate the MCR.

Proposed new subsections (c)-(h) would describe the method that TEA would use to collect data from districts as well as the timeframes and processes for data collection, release of preliminary MCRs, and submission of appeals, as follows.

TEA will initiate a data collection annually in May to collect school district property value growth estimates using the estimates districts receive from their county appraisal districts. TEA will convert the local values into projected property values used for state funding ("Estimated T2" values) and then compute the MCRs. TEA will calculate districts' compressed tax rates based on the greater of the statewide average growth rate or the individual district growth rate. TEA will publish each district's preliminary maximum compressed tier one tax rate in June and final maximum compressed tier one tax rate on July 31.

TEA will issue a list of preliminary maximum compressed tier one tax rates to school districts on or around the second Monday in June of each year. The proposal new rule would include an appeal process for districts regarding the preliminary maximum compressed tier one tax rates.

TEA will only consider appeals that would result in a change of the preliminary tax rate.

FISCAL IMPACT: Leo Lopez, associate commissioner for school finance/chief school finance officer, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would create a new regulation because it imposes the requirements of a recently enacted statute.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: The proposal would ensure that rule language is based on current law and provide school districts with clarifications on the maximum compressed M&O tax rates that their boards of trustees may adopt without a fiscal impact to local taxpayers. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have data and reporting impact.

In accordance with TEC, §48.2551(d), TEA is required to calculate and make available school districts' maximum compressed tier one tax rates. In order to comply with statute, TEA will collect data from school districts. TEA will initiate a data collection annually in May to collect school district property value growth estimates using the estimates districts receive from their county appraisal districts. TEA will use the local values to estimate comptroller certified values used for state funding ("T2" values) and then TEA will compute the local property value growth rate and MCRs. TEA will calculate districts' compressed tax rates based on the greater of the statewide average growth rate or the individual district growth rate. TEA will publish each district's preliminary maximum compressed tier one tax rate in June and final maximum compressed tier one tax rates on July 31.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: The TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins January 17, 2020, and ends February 18, 2020. A public hearing to solicit testimony and input on the proposal will be held at 8:30 a.m. on February 5, 2020, in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. Anyone wishing to testify at the hearing must sign in between 8:15 a.m. and 9:00 a.m. on the day of the hearing. The hearing will conclude once all who have signed in have been given the opportunity to comment. Questions about the hearing should be directed to Forecasting and Fiscal Analysis at (512) 463-8891.

STATUTORY AUTHORITY. The new section is proposed under Texas Education Code (TEC), §48.2551, as added by House Bill (HB) 3, 86th Texas Legislature, 2019, which requires TEA to calculate and make available school districts' maximum maintenance and operations compressed tax rates; TEC, §48.004, as transferred, redesignated, and amended by HB 3, 86th Texas Legislature, 2019, which specifies that the commissioner shall adopt rules that are necessary to implement and administer the Foundation School Program; and TEC, §48.011, as added by HB 3, 86th Texas Legislature, 2019, which provides the commissioner authority to resolve unintended consequences from school finance formulas upon approval from the Legislative Budget Board and office of the governor.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §§48.2551, 48.004, and 48.011, as added by House Bill 3, 86th Texas Legislature, 2019.

<rule>

§61.1000. Maximum Compressed Tax Rate Calculation and Data Collection.

(a) This section, made pursuant to Texas Education Code (TEC), §48.011 and §48.004, addresses calculations in TEC, §48.2551.

- (b) School districts' maximum compressed maintenance and operations (M&O) tax rates, as determined by TEC, §48.2551 and §48.2552, and relevant rules, shall be calculated using locally certified property values and adjusted to estimate for exclusions under Texas Government Code, §403.302(d).
- (c) The Texas Education Agency (TEA) will open a data collection from May 1 through May 31 to school districts. School districts must submit the following data:
- (1) April County Appraisal District (CAD) Preliminary Certified Property Values for the preceding tax year;
 - (2) July CAD Certified Property Values for the preceding tax year;
 - (3) April CAD Preliminary Certified Property Values for the current tax year;
 - (4) local exemption changes for the preceding tax year, including, but not limited to, the following exemptions:
 - (A) Tax Code, Chapter 313, Texas Economic Development Act (expiring or new);
 - (B) local option General Residence Homestead;
 - (C) local option Age 65 or Older or Disabled;
 - (D) local option Historic or Archeological Sites; and
 - (E) local option Freeport;
 - (5) local exemption changes for the current tax year, including, but not limited to, the following exemptions:
 - (A) Tax Code, Chapter 313, Texas Economic Development Act (expiring or new);
 - (B) local option General Residence Homestead;
 - (C) local option Age 65 or Older or Disabled;
 - (D) local option Historic or Archeological Sites; and
 - (E) local option Freeport; and
 - (6) district contact information.
- (d) TEA will calculate and make available a list of preliminary maximum compressed tier one tax rates to school districts on or around the second Monday in June of each year.
- (e) If TEA receives an appeal of a preliminary maximum compressed tax rate (MCR), TEA will issue a final determination to the school district no later than 30 calendar days after the deadline for submitting appeals.
- (f) If TEA does not receive an appeal of a preliminary MCR, the preliminary MCR automatically becomes a final tax rate on July 31.
- (g) A school district may appeal its preliminary MCR through the following process.
- (1) The TEA division responsible for MCRs must receive a written appeal no later than 10 calendar days after TEA's release of the preliminary MCRs. The appeal must include adequate evidence and additional information that supports the position of the school district. Appeals received 11 calendar days or more after TEA issues a preliminary tax rate will not be considered.
 - (2) TEA will only consider appeals that would result in a change of the preliminary MCR.
- (h) TEA will use any available data to calculate MCR absent data collection submissions from a school district.
- (i) The commissioner of education may waive a provision of this section if necessary to ensure the appropriate MCR calculation.