The Texas Education Agency (TEA) proposes new §61.1002, concerning maximum compressed tax rate limitations. The proposed new rule would reflect changes made by House Bill (HB) 3, 86th Texas Legislature, 2019, by explaining how TEA will calculate and make available maximum tier one compressed tax rates when compression would otherwise result in a tax compression below the allowable threshold.

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 §61.1002, Maximum Compressed Tax Rate Limitations, would provide that, for purposes of determining a district's MCR for a given tax year under TEC, §§48.2551(b)(1)(B), 48.2551(c), and 48.2552(b), if the calculation of a school district's maximum compressed maintenance and operations (M&O) tax rate for that year would result in an MCR less than 90% of the highest district's maximum compressed M&O tax rate, the district's maximum compressed M&O tax rate is 90% of the highest maximum compressed M&O tax rate for that year.

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 no data and reporting impact.

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, §48.2552, as added by HB 3, 86th Texas Legislature, 2019, which requires TEA each year to evaluate the difference between school districts' maximum compressed tax rates, as determined under TEC, §48.2551, to provide for a limitation on maximum compressed tax rate; 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.


§61.1002. Maximum Compressed Tax Rate Limitations.

(a) This section, made pursuant to Texas Education Code (TEC), §48.011 and §48.004, addresses calculations in TEC, §48.2551 and §48.2552.

(b) For purposes of determining a district's maximum compressed tax rate (MCR) for a given tax year under TEC, §§48.2551(b)(1)(B), 48.2551(e), and 48.2552(b), if the calculation of a school district's maximum compressed maintenance and operations (M&O) tax rate for that year would result in an MCR less than 90% of the highest district's maximum compressed M&O tax rate, the district's maximum compressed M&O tax rate is 90% of the highest maximum compressed M&O tax rate for that year.