## Overview of a School District Bond Issuance

*Published online in [TASB School Law eSource](https://www.tasb.org)*

### Definitions & Laws

- **Bond**: a public security approved by the Office of the Attorney General (OAG) and issued by a school district under Texas Education Code sections 45.003 or 45.004, to provide long-term financing with a maturity schedule of at least three years but not more than 40 years. A school district may levy ad valorem **taxes** sufficient to pay the principal and interest on the bonds. Bonds may not be issued or taxes levied unless authorized by a majority of district voters in an **election** held for that purpose. Tex. Educ. Code § 45.001; 19 Tex. Admin. Code § 33.65(b)(4).

- **Public Security**: an instrument, including a bond, certificate, note, or other type of obligation authorized to be issued by an issuer under a statute. Tex. Gov’t Code § 1201.002(2).

- **Laws**: School district bond issues are governed by numerous state and federal laws:
  - Texas Education Code, including chapter 45; Election Code; Tax Code; and Government Code chapters 1201 (the Public Security Procedures Act) through 1208 and 1251, among others
  - 1 Tex. Admin. Code chapter 53 (OAG approval of public securities)
  - 19 Tex. Admin. Code § 33.65 (Permanent School Fund Bond Guarantee Program)
  - Internal Revenue Code
  - Federal Securities Laws and SEC Rules

### Step 1: Decide to Issue Bonds

- **Assess and prioritize needs**
  - School districts may issue bonds for specific purposes:
    - construct, acquire, and equip school buildings;
    - acquire or refinance property financed under the Public Property Finance Act;
    - purchase sites for school buildings;
    - purchase new school buses;
    - retrofit school buses with emergency, safety, or security equipment; and
    - purchase or retrofit vehicles to be used for emergency, safety, or security purposes

- **Select financial advisor, bond counsel, and election attorney** (See TASB Legal Services’ [Players in a School District Bond Issuance](https://www.tasb.org) for information on each role and [Working with Your School District’s Attorney](https://www.tasb.org) for information on hiring an attorney)

- **Engage the community**
  - Invite input on needs and expectations
  - Generate support for future plans

- **Be transparent**

### Step 2: Order the Election

- **Order/Notice/Voter Information** (See CCA(LEGAL) and [School District Bond Election Process](https://www.tasb.org))
  - Specific content requirements
  - Publication and posting requirements
  - Deadlines

- **Publicity/Communication** (See TASB Legal Services’ [Campaign Speech During Elections](https://www.tasb.org) and the Texas Ethics Commission’s [Short Guide to The Prohibition Against Using School District Resources for Political Advertising](https://www.tasb.org) and [Advocating Passage or Defeat of a Measure](https://www.tasb.org))
  - Educate the community and encourage voting
  - Avoid using school resources for advocacy; disseminate facts instead (BBBD(LEGAL))

- The board’s pre-election orders & resolutions regarding how bond proceeds will be spent may create a contract with the voters.
<table>
<thead>
<tr>
<th>Step 3: Hold the Election</th>
<th>Step 4: Issue the Bonds</th>
<th>Step 5: Implement the Bond Program</th>
</tr>
</thead>
<tbody>
<tr>
<td>Polling places (BBBA(LEGAL))</td>
<td>Approximately 30 days after the election</td>
<td>Construction process (CV(LEGAL) series)</td>
</tr>
<tr>
<td>Ballot language (CCA(LEGAL))</td>
<td>The district’s financial advisor, bond counsel, underwriter, and underwriter’s counsel are very involved in this step (See TASB Legal Services’ Players in a School District Bond Issuance for information on each role)</td>
<td>Procurement requirements</td>
</tr>
<tr>
<td>o Single proposition: bonds for construction, acquisition, and equipment of school buildings, purchase of new school buses, and purchase of sites for school buildings</td>
<td>OAG review of the entire transcript of proceedings (all legal and financial documents associated with the bond issue) and certification of the bonds</td>
<td>Other requirements</td>
</tr>
<tr>
<td>o Separate propositions:</td>
<td>Competitive or negotiated sale</td>
<td>o Bonding and insurance</td>
</tr>
<tr>
<td>▪ construction, acquisition, or equipment of specific facilities:</td>
<td>o Timing is important</td>
<td>o Prevailing wages</td>
</tr>
<tr>
<td>o Stadium with seating capacity for more than 1,000;</td>
<td>▪ Sell in time to have proceeds to meet cash flow needs</td>
<td>o Criminal history review</td>
</tr>
<tr>
<td>o Natatorium;</td>
<td>▪ Use project schedules</td>
<td></td>
</tr>
<tr>
<td>o Performing arts facility;</td>
<td>o Avoid issuing too early and paying interest</td>
<td></td>
</tr>
<tr>
<td>o Recreational facility other than a gymnasium, playground, or play area;</td>
<td>▪ Reduce overall cost of borrowing; better manage tax rate</td>
<td></td>
</tr>
<tr>
<td>o Teacher housing determined by the district to be necessary; and</td>
<td>Closing and delivery of bonds and funds</td>
<td></td>
</tr>
<tr>
<td>▪ acquisition and update of technology equipment other than equipment used for school security purposes or technology infrastructure integral to the construction of a facility</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

For more on school district bond ballot requirements, see To All Bond Counsel Letter dated December 27, 2019.

- Construction process (CV(LEGAL) series)
  - Procurement requirements
  - Other requirements
    - Bonding and insurance
    - Prevailing wages
    - Criminal history review

- Continued disclosure requirements—SEC Rule 15c2-12
- Communicate progress
- Invest proceeds (CDA(LEGAL) & (LOCAL)) only as permitted by:
  - the Public Funds Investment Act;
  - applicable statutory provisions; and
  - the district’s investment policy
- Unused proceeds may be used only:
  - for the specific authorized purposes;
  - to retire bonds; or
  - for another purpose if:
    - specific purposes were accomplished or abandoned, and
    - at a public meeting held to consider unused proceeds, the board approves in separate votes using the proceeds for:
      - a purpose other than to retire the bonds; and
      - a new purpose specified when the vote is taken
- Authorized but unissued bonds: if specific purposes have been accomplished or abandoned, the board may order an election on the question of issuing the bonds for a different purpose specified in the election order and notice
- Maturity: Bonds must be paid in full on or before the maturity date