



## Overview of a School District Bond Issuance

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| Definitions & Laws  | Step 1: Decide to Issue Bonds   | Step 2: Order the Election   |
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| <ul style="list-style-type: none"><li>• <b>Bond:</b> 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 <b>taxes</b> 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 <b>election</b> held for that purpose. Tex. Educ. Code § 45.001; 19 Tex. Admin. Code § 33.65(b)(4).</li><li>• <b>Public Security:</b> 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).</li><li>• <b>Laws:</b> School district bond issues are governed by numerous state and federal laws:<ul style="list-style-type: none"><li>○ 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</li><li>○ 1 Tex. Admin. Code chapter 53 (OAG approval of public securities)</li><li>○ 19 Tex. Admin. Code § 33.65 (Permanent School Fund Bond Guarantee Program)</li><li>○ Internal Revenue Code</li><li>○ Federal Securities Laws and SEC Rules</li></ul></li></ul> | <ul style="list-style-type: none"><li>• Assess and prioritize needs<ul style="list-style-type: none"><li>○ School districts may issue bonds for specific purposes:<ul style="list-style-type: none"><li>▪ construct, acquire, and equip school buildings;</li><li>▪ acquire or refinance property financed under the Public Property Finance Act;</li><li>▪ purchase sites for school buildings;</li><li>▪ purchase new school buses;</li><li>▪ retrofit school buses with emergency, safety, or security equipment; and</li><li>▪ purchase or retrofit vehicles to be used for emergency, safety, or security purposes</li></ul></li></ul></li><li>• Select financial advisor, bond counsel, and election attorney (See TASB Legal Services' <a href="#">Players in a School District Bond Issuance</a> for information on each role and <a href="#">Working with Your School District's Attorney</a> for information on hiring an attorney)</li><li>• Engage the community<ul style="list-style-type: none"><li>○ Invite input on needs and expectations</li><li>○ Generate support for future plans</li></ul></li><li>• Be transparent</li></ul> | <ul style="list-style-type: none"><li>• Order/Notice/Voter Information (See CCA(LEGAL) and <a href="#">School District Bond Election Process</a>)<ul style="list-style-type: none"><li>○ Specific content requirements</li><li>○ Publication and posting requirements</li><li>○ Deadlines</li></ul></li><li>• Publicity/Communication (See TASB Legal Services' <a href="#">Campaign Speech During Elections</a> and the Texas Ethics Commission's <a href="#">Short Guide to The Prohibition Against Using School District Resources for Political Advertising</a> and <a href="#">Advocating Passage or Defeat of a Measure</a>)<ul style="list-style-type: none"><li>○ Educate the community and encourage voting</li><li>○ Avoid using school resources for advocacy; disseminate facts instead (BBBD(LEGAL))</li></ul></li><li>• The board's pre-election orders &amp; resolutions regarding how bond proceeds will be spent may create a contract with the voters.</li></ul> |

| Step 3: Hold the Election   | Step 4: Issue the Bonds  | Step 5: Implement the Bond Program   |
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| <ul style="list-style-type: none"> <li>• Polling places (BBBA(LEGAL))</li> <li>• Ballot language (CCA(LEGAL)) <ul style="list-style-type: none"> <li>○ Single proposition: bonds for construction, acquisition, and equipment of school buildings, purchase of new school buses, and purchase of sites for school buildings</li> <li>○ Separate propositions: <ul style="list-style-type: none"> <li>▪ construction, acquisition, or equipment of specific facilities: <ul style="list-style-type: none"> <li>➢ stadium with seating capacity for more than 1,000;</li> <li>➢ natatorium;</li> <li>➢ performing arts facility;</li> <li>➢ recreational facility other than a gymnasium, playground, or play area;</li> <li>➢ teacher housing determined by the district to be necessary; and</li> </ul> </li> <li>▪ acquisition and update of technology equipment other than equipment used for school security purposes or technology infrastructure integral to the construction of a facility</li> </ul> </li> </ul> </li> </ul> <p>For more on school district bond ballot requirements, see <a href="#">To All Bond Counsel Letter</a> dated December 27, 2019.</p> | <ul style="list-style-type: none"> <li>• Approximately 30 days after the election</li> <li>• The district’s financial advisor, bond counsel, underwriter, and underwriter’s counsel are very involved in this step (See TASB Legal Services’ <a href="#">Players in a School District Bond Issuance</a> for information on each role)</li> <li>• <a href="#">OAG</a> review of the entire <i>transcript</i> of proceedings (all legal and financial documents associated with the bond issue) and certification of the bonds</li> <li>• Competitive or negotiated sale <ul style="list-style-type: none"> <li>○ Timing is important <ul style="list-style-type: none"> <li>▪ Sell in time to have proceeds to meet cash flow needs <ul style="list-style-type: none"> <li>➢ Use project schedules</li> </ul> </li> <li>▪ Avoid issuing too early and paying interest <ul style="list-style-type: none"> <li>➢ Reduce overall cost of borrowing; better manage tax rate</li> </ul> </li> </ul> </li> </ul> </li> <li>• Closing and delivery of bonds and funds</li> </ul> | <ul style="list-style-type: none"> <li>• Construction process (CV(LEGAL) series) <ul style="list-style-type: none"> <li>○ Procurement requirements</li> <li>○ Other requirements <ul style="list-style-type: none"> <li>▪ Bonding and insurance</li> <li>▪ Prevailing wages</li> <li>▪ Criminal history review</li> </ul> </li> </ul> </li> <li>• Continued disclosure requirements—SEC Rule 15c2-12</li> <li>• Communicate progress</li> <li>• Invest proceeds (CDA(LEGAL) &amp; (LOCAL)) only as permitted by: <ul style="list-style-type: none"> <li>○ the Public Funds Investment Act;</li> <li>○ applicable statutory provisions; and</li> <li>○ the district’s investment policy</li> </ul> </li> <li>• Unused proceeds may be used only: <ul style="list-style-type: none"> <li>○ for the specific authorized purposes;</li> <li>○ to retire bonds; or</li> <li>○ for another purpose if: <ul style="list-style-type: none"> <li>▪ specific purposes were accomplished or abandoned, and</li> <li>▪ at a public meeting held to consider unused proceeds, the board approves in separate votes using the proceeds for: <ul style="list-style-type: none"> <li>➢ a purpose other than to retire the bonds; and</li> <li>➢ a new purpose specified when the vote is taken</li> </ul> </li> </ul> </li> </ul> </li> <li>• 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</li> <li>• Maturity: Bonds must be paid in full on or before the maturity date</li> </ul> |

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This document is continually updated at [tasb.org/services/legal-services/tasb-school-law-essource/business/documents/overview-of-school-district-bond-issuance.pdf](https://tasb.org/services/legal-services/tasb-school-law-essource/business/documents/overview-of-school-district-bond-issuance.pdf). For more information on school law topics, visit TASB School Law eSource at [schoollawesource.tasb.org](https://schoollawesource.tasb.org).

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